

LESSONS NOT LEARNED: HUMAN RIGHTS ABUSES AND HIV/AIDS IN THE RUSSIAN FEDERATION

I. SUMMARY	1
II. RECOMMENDATIONS	5
For the government of the Russian Federation	5
On HIV/AIDS	5
On narcotic drugs and drug users	5
In law enforcement	6
For international donors and multilateral agencies	7
III. METHODS	7
IV. BACKGROUND	8
HIV/AIDS in the Russian Federation	8
Risk factors and government action	10
Narcotic drug use in Russia	14
Narcotic drug policy in Russia: Recent developments	17
V. FINDINGS OF HUMAN RIGHTS WATCH'S INVESTIGATION	24
Introduction	24
Official actions on HIV/AIDS in Saint Petersburg	26
Impediments to HIV prevention for injection drug users	27
National and international law and HIV prevention among drug users	30
Other harassment and abuse of drug users and sex workers in the law enforcement system	32
National and international law related to these abuses	35
HIV prevention in prison	37
Human rights and international standards on HIV/AIDS and drug use in prison	40
Discrimination against drug users in health services	42
Discrimination against people with AIDS and public knowledge and attitudes about AIDS	46
Human rights and international and national standards	51
High-level political commitment to fighting HIV/AIDS and related human rights abuses	53

<u>VI. CONCLUSION</u>	57
<u>ACKNOWLEDGEMENTS</u>	58

I. SUMMARY

AIDS cannot be conquered through the sort of 'command and control' approaches that have traditionally shaped public policy in [eastern Europe]. Instead the creation of open, democratic, inclusive environments where comprehensive, multisectoral policies and innovative partnerships build trust and reduce stigma is essential to turning back the epidemic.

--U.N. Development Programme, Reversing the Epidemic: Facts and Policy Options, February 2004.

They treat us like dirt. I just want to be treated like a normal human being.

--Yevgeny X., injection drug user, Saint Petersburg, February 2004

The Russian Federation is facing a deadly epidemic of acquired immune deficiency syndrome (AIDS). It is driven in part by abuses of the human rights of those most at risk to get the disease and of the over 1 million Russians already living with the human immunodeficiency virus (HIV). The principal means of HIV transmission in Russia has been and remains injection drug use. But the Russian state has done little to support low-cost measures that would enable drug users to realize their right to be protected from this incurable disease. Instead, Russia has been a model of repression of drug users and stigmatization of HIV-positive people, putting the country squarely on the path of very high AIDS mortality and continued abuse of people affected by HIV/AIDS.

An active AIDS epidemic did not begin in Russia until fifteen years into the global history of this destructive disease. This gave Russia the opportunity to profit from the experiences of other countries in confronting it. Instead, Russia has systematically rejected well established lessons. The government has allowed police to disrupt syringe exchange and other services drug users need for HIV prevention. It has permitted drug control policies to undermine their access to health services. It has refused to allow drug users in some parts of the country to be treated for AIDS. It has allowed drug users and HIV-positive persons to be marginalized by stigma and social disdain. It has given little priority to HIV prevention more broadly, including to the right of the Russian people to basic information on HIV transmission and AIDS care. It has marshaled few resources to face an enemy that threatens to kill millions of its people before it is through.

In Saint Petersburg, the second largest city in Russia, good policies have removed some barriers to fighting HIV/AIDS. Unlike their counterparts in Moscow, the Saint Petersburg city authorities have for years operated and allowed others to offer HIV prevention services for injection drug users, including syringe exchange—an activity

with a long and successful track record around the world that allows drug users to exchange their used syringes for sterile ones. Syringe exchange brings marginalized drug users into contact with educators and counselors and enables them to be referred to other health and social services. In permitting syringe exchange, Saint Petersburg has recognized the importance of “harm reduction” approaches—actions that limit the individual and social harm of drug use without requiring the cessation of drug use.¹ Saint Petersburg has also made efforts to remove discrimination in health services for people with AIDS. The specialized AIDS Center in the city is praised by HIV-positive people as a place where they can get information and care.

Even in this environment, however, the police have been allowed to create a climate of fear for drug users and to impede directly their access to the tools of HIV prevention. Many injection drug users purchase sterile syringes in drug stores, and numerous drug users told Human Rights Watch that police patrol drug stores, especially at night, and target those who purchase syringes for harassment or detainment. Fear of encountering police around syringe exchange points similarly deters some drug users from utilizing these services. Drug injectors are detained because of possession of syringes, which is not illegal in Russia. Drug users in Saint Petersburg recounted stories of having been forced by police on the street to show their arms and if they have needle marks to be subjected to extortion and threats of detention or to having narcotics planted on them. For police, drug users represent an easy and welcome target for filling arrest quotas and extortion of money—and society is unlikely to raise a voice objecting to these abuses.

Drug users and former drug users who are or are suspected to be HIV-positive are doubly burdened by abuse and discrimination. HIV-positive people in Saint Petersburg face discrimination in access to jobs and government services and deep stigma and abuse if they are courageous enough to reveal their HIV status. Even health professionals can be abusive and are often apparently fearful of HIV-positive people. Discrimination and stigma are related to the widely held misperception that HIV is spread by casual contact. The government has done little to combat this misunderstanding, allocating paltry sums for measures to raise awareness of the basic facts of HIV/AIDS.

Because of drug laws that have historically criminalized the possession of very small amounts of narcotics, drug users in Russia face a high probability of spending time in prison or pretrial detention at some time in their lives. Injection drug use is widespread in prisons. But basic HIV prevention measures, including condoms and

¹ Harm reduction programs include needle and syringe exchanges, replacement therapy treatment, health and drug education, HIV and sexually transmitted disease (STD) screening, psychological counseling, and medical referrals. For more information on harm reduction, see Open Society Institute, International Harm Reduction Development (IHRD) Program, “Drugs, AIDS and harm reduction: How to slow the HIV epidemic in eastern Europe and the former Soviet Union,” 2001, and the web site of the IHRD Program at <http://www.soros.org/initiatives/ihrd>.

materials for sterilization of syringes, are largely lacking in Russian correctional facilities, making prisons across the country high-risk environments for AIDS. The vast numbers of prisoners released every year thus represent a public health challenge for the general population. Both in and outside of prison, the virtual absence of humane services to treat drug addiction and the illegality in Russia of methadone and other drugs used elsewhere to treat heroin addiction further compromise HIV prevention among drug users.

The importance of prevention measures is especially great given the paucity of antiretroviral treatment for people with HIV/AIDS in Russia. Unlike many other countries in the former Soviet sphere, Russia has neither taken advantage of discounts offered by multinational drug companies nor registered generic versions of anti-AIDS medicines. At this writing, the World Health Organization and the World Bank are pushing for registration of generic antiretroviral drugs to enable 50,000 persons with AIDS in Russia to be treated for their illness by December 2005. The government, resting on estimates of HIV prevalence that have long been questioned by international observers, asserts that only 4000 to 5000 Russians are in need of treatment.

State action that impedes people from protecting themselves from a deadly epidemic is blatant interference with the right of Russians to the highest obtainable standard of health. There is no dispute as to the effectiveness of sterile syringes for preventing HIV, hepatitis C and other blood-borne infections. Public health experts are virtually unanimous in the view that providing access to sterile syringes neither encourages drug use nor dissuades drug users from entering drug treatment programs. In reality, the near absence of humane treatment programs for drug addiction in Russia and the very nature of drug use guarantee that there will always be people who either cannot or will not stop using drugs. Impeding this population from obtaining or using sterile syringes amounts to prescribing death as a punishment for illicit drug use.

In December 2003, the State Duma (Russian parliament) took promising steps to undo some of the elements of Russia's drug laws that pose barriers to effective responses to HIV/AIDS. Its amendment to the Criminal Code of the Russian Federation opened the door, for example, to lifting of criminal sanctions for users who possess extremely small amounts of narcotics, as well as to reexamination of the important question of the legal status of syringe exchange programs and measures to regulate them. Since the amendment was passed, however, the State Drug Control Committee (SDCC) has pushed for even harsher penalties than before— seeking, for example, to criminalize possession of doses of heroine as small as 0.0001 grams, a far smaller amount than is set by most countries. In addition, SDCC officials have pushed for strict regulation of syringe exchange, including the possibility of compromising the anonymity of persons using syringe exchanges and of banning current and former drug users from working as educators, which would greatly undermine these services.

With these policy measures now being actively discussed at the federal level, this is a key moment for the new government of Vladimir Putin to make a strong commitment to fight HIV/AIDS and to respect the human rights of people already living with the disease and those most at risk. President Putin should speak out forcefully about HIV/AIDS in Russia, and he should ensure that his government follow his words with resources commensurate to the AIDS crisis. Programs that reflect lessons learned globally are urgently needed. The lives of millions of Russians depend on a new and bold commitment.

II. RECOMMENDATIONS

For the government of the Russian Federation

The government of the Russian Federation has a limited window of opportunity to address its fast growing AIDS epidemic. It should take urgent action in the following areas.

On HIV/AIDS

- End discrimination in the application of antiretroviral treatment programs for persons with AIDS. Respect the recommendation of the Russian Federal AIDS Center that active drug users should be included in antiretroviral treatment programs.
- Respect the rights of people in Russia to be well informed on HIV/AIDS, including the facts of HIV transmission and the importance of reducing stigma related to HIV/AIDS. Establish large-scale, sufficiently resourced information campaigns based on lessons from programs established in other countries over the last twenty years, including programs tailored to the needs of vulnerable persons such as drug users and their sexual partners, street children, and workers in the sex trade. Design and implement programs suitable for school children, members of the armed forces, and any other large population that is reachable through state institutions. Make use of peer education among young people, drug users, sex workers and others at risk, building on the lessons of other countries.
- Expedite the process of registration of generic antiretroviral drugs and ensure widespread information for the population about the availability of generic drugs through government programs and private sources.
- Follow the example of nearly every other U.N. member state by establishing an interministerial body to coordinate the national HIV/AIDS response that would include, at a minimum, representatives of the Ministry of Health and Social Development, Ministry of Economic Development and Trade, Ministry of Education and Science, and Ministry of Culture and Mass Communications. This body should have budgetary resources independent of the participating ministries, and participating ministries should be represented by high-level staff.

On narcotic drugs and drug users

- Do not inhibit the operation of syringe exchange and other harm reduction services by governmental or nongovernmental bodies. In particular, allow drug users to utilize syringe exchange services without requiring that they be identified by name or that their names be recorded. Increase the availability

of harm reduction services, including syringe exchange, in recognition of their importance for HIV prevention.

- Reject the suggestion of the State Drug Control Committee mandating prison sentences for possession of extremely small amounts of narcotics, which would exacerbate the problem of HIV/AIDS among drug users. . Establish standards in line with the spirit of the State Duma's December 2003 reform.
- Do not prohibit the participation of drug users and former drug users in outreach, education and harm reduction programs for drug users.
- Repeal the ban on use of methadone in replacement or substitution therapy² for opiate addiction and make replacement therapy a central element of HIV prevention for opiate users.
- Establish services for the humane treatment of narcotics addiction, including in prisons, according to international standards, which would include the use of opioid substitutes such as methadone or buprenorphine.

In law enforcement

- Discontinue the practice of police harassment, arrest and detention of drug users because of possession of syringes, which is not justified under either Russian law or international guidelines. Discontinue harassment of people based on the visibility of traces of injection on their arms. End other arbitrary detention of drug users, and ensure their right to due process.
- Abolish the use of arrest or detention quotas by police, which encourages arbitrary arrest and detention.. Accused persons should be detained only if the accused is judged to pose a risk of fleeing the jurisdiction or, if released, committing other offenses, causing public disorder, or obstructing the administration of justice.³ Detention should be premised on the state's demonstration of one or more of these conditions. The state should prosecute to the fullest extent of the law those law enforcement agents responsible for arbitrary arrest, extortion, mistreatment and abuse of office.
- Establish and maintain a program of training for police at all levels on HIV/AIDS, the importance of harm reduction services, and related human rights issues. Make collaboration with public health officials on HIV prevention a criterion for promotion for police officials.

² Substitution or replacement therapy provides narcotics drug users with access to legal drugs that can substitute for drugs that are illegal or are obtained through illegal means. These programs seek to assist drug users in switching from illicit drugs of unknown quality, purity and potency to legal drugs obtained from health services or other legal channels, thus reducing the risk of overdose and other medical complication, as well as the need to commit crimes to obtain drugs. For heroin addiction, methadone is a substitution drug of proven effectiveness. See Drug Policy Alliance, "Reducing Harm, Treatment and Beyond," available at <http://www.drugpolicy.org/reducingharm/maintenance/> (retrieved March 5, 2004).

³ These criteria were established by the European Court of Justice in *Toth v Austria*, judgment of December 12, 1991, para. 77.

- Discontinue the practice of segregation of HIV-positive inmates in Russian correctional facilities. Take measures to respect the principle that the level of health services in prisons, including HIV prevention and AIDS care, should reflect the level offered to the general public. Provide condoms to inmates as well as bleach or another disinfectant for sterilization of syringes. Ensure nondiscrimination against drug users and people with HIV/AIDS in access to health, information, education and other services in Russian prisons.
- Discontinue the practice of mandatory testing of inmates for HIV. Establish a system for detainees of voluntary and confidential HIV testing with informed consent and appropriate counseling.

For international donors and multilateral agencies

- Support measures in Russia that contribute to a public health approach to HIV prevention for drug users, particularly the strengthening of syringe exchange and other harm reduction services. Encourage the Russian Federation to revise its drug laws to provide alternatives to incarceration for individual possession of tiny amounts of narcotics. Urge the Russian Federation to authorize the use of methadone and other widely used substitution therapies for heroin addicts.
- Urge the Russian Federation to establish a reliable system of nationwide sentinel surveillance of the prevalence of HIV. Provide technical support to ensure not only the scientific soundness of this exercise but also that it ensures the confidentiality of the results of HIV tests taken for surveillance purposes.

III. METHODS

In February 2004 in Saint Petersburg, two Human Rights Watch staff members interviewed in detail thirty persons at high risk of HIV, including drug users, former drug users, sex workers and people living with HIV/AIDS, and spoke more informally to another sixteen members of support groups of people with AIDS. The identities of most of these persons have been withheld at their request. These persons were identified largely with the help of Russian nongovernmental organizations (NGOs) and government health facilities providing services to them. We also spoke with fourteen service providers, including city health officials, a prison official, and HIV/AIDS educators and service providers in NGOs. Interviews were conducted in

health facilities, in NGO offices, on the street, and in public places such as cafes. We were unable to get a statement on the record from the Saint Petersburg police.

In Moscow, we met with federal health officials and attended a meeting of donors and government officials at the World Bank on the subject of access to treatment for HIV/AIDS in Russia. Repeated attempts to meet with officials of the State Drug Control Committee were unsuccessful. From New York and Moscow, we interviewed international AIDS and narcotics control experts.

The majority of interviews were conducted in Russian; a few were in English. Almost all interviews were conducted on an individual basis with only a few group interviews. Human Rights Watch also gathered unpublished and published government and NGO documents on HIV/AIDS and drug use and other background material from a wide range of sources.

We chose to highlight the case of Saint Petersburg, firstly, because it has a much higher estimated rate of HIV prevalence than most cities and regions in Russia and a high estimated rate of injection drug use. Secondly, the city has a track record of allowing HIV prevention activities for injection drug users, notably needle exchange services, to operate continuously since 1997, which is not the case in Moscow and some other Russian cities. Thirdly, we had received reports indicating that, even in the somewhat friendly policy environment of Saint Petersburg, HIV prevention services for people at high risk of HIV continued to face state-sponsored impediments. As such we thought that examining conditions in Saint Petersburg would provide strong evidence of a life-threatening problem that should be of concern to federal and regional authorities.

IV. BACKGROUND

HIV/AIDS in the Russian Federation

Until the mid-1990s, it was widely thought that Russia would be spared the destruction of HIV/AIDS. Beginning in the late 1990s, however, the United Nations system's annual reports on the state of the global HIV/AIDS epidemic estimated that eastern Europe and central Asia—the United Nations region that includes Russia and the former Soviet Union (FSU)—was the region with the fastest growing epidemic in the world.⁴ The rapidity of the spread of the epidemic in Russia and some surrounding countries was unprecedented in the history of HIV/AIDS at least partly

⁴ Joint United Nations Programme on HIV/AIDS (UNAIDS)/and World Health Organization (WHO), "AIDS Epidemic Update" (UNAIDS/02.58E), December 2002, p. 12; and UNAIDS/WHO, AIDS Epidemic Update (UNAIDS/01.74E), December 2001, p. 6.

because injection drug use, an efficient means of spreading HIV, has been the most important cause of new transmission in the region. In Russia from 1995 to 2001, the rate of new infection doubled every six to twelve months.⁵

The government's official estimate of the number of persons living with HIV/AIDS in the country is 800,000 to 1.2 million.⁶ United Nations reports have consistently noted that prevalence figures from Russia and other eastern European countries have underestimated the extent of the epidemic.⁷ The United Nations annual report on HIV/AIDS in December 2003 cited estimates of up to 1.5 million people living with HIV/AIDS in the country.⁸ A report by the research arm of the U.S. Central Intelligence Agency in 2002 suggested at that time that 2 million Russians might be HIV-positive and projected that as many as 8 million would be living with HIV/AIDS by 2010.⁹ The projection of the Federal AIDS Center in Moscow is that there may be as many as 5 million Russians living with HIV/AIDS by 2007.¹⁰ Russia was estimated in 2003 to account for 76 percent of all HIV infection in central and eastern Europe.¹¹

After having reported sharp and steady increases in new HIV transmission for several years, Russia reported a significant decline in the rate of new transmission in 2002. Dr. Vadim Pokrovsky, head of the Federal AIDS Center that supervises many aspects of AIDS surveillance and research in the country, was cited in a February 2004 United Nations Development Programme (UNDP) report as concluding that this decline was "not a true reflection of changes in HIV incidence," but rather resulted from a 38 percent decline in 2002 in the number of drug users tested for HIV.¹² Pokrovsky told the press in November 2002 that this decline in testing was caused by the federal Ministry of Health's having stopped paying for HIV tests, forcing regions and cities to pick up the slack.¹³ The UNDP report is critical of eastern European countries that rely for their AIDS surveillance on case reporting—that is, surveillance based not on representative sample surveys of at-risk populations but on recording of

⁵ United Nations Development Programme, "Reversing the Epidemic: Facts and Policy Options (HIV/AIDS in Eastern Europe and the Commonwealth of Independent States)," UNDP-Bratislava, 2004, p. 16.

⁶ Human Rights Watch interview with Dr. Vadim Pokrovsky, chief of the Federal AIDS Center, Moscow, February 26, 2004.

⁷ "AIDS Epidemic Update 2002," p. 12, and "AIDS Epidemic Update 2003," p. 15.

⁸ "AIDS Epidemic Update 2003," p. 14.

⁹ National Intelligence Council, "The Next Wave of HIV/AIDS: Nigeria, Ethiopia, Russia, India and China," September 2002, p. 12.

¹⁰ Anna Badkhen, "Russia on brink on AIDS explosion—Ignorance and inaction threaten catastrophe," *San Francisco Chronicle*, July 28, 2002. Available at www.aegis.com/news/sc/2002/SC020726.html (retrieved March 5, 2004).

¹¹ Françoise F. Hamers and Angela M. Downs, "HIV in central and eastern Europe," *Lancet* online review, February 18, 2003, available at <http://image.thelancet.com/extras/02art6024web.pdf> (retrieved March 12, 2004).

¹² United Nations Development Programme, "Reversing the Epidemic: Facts and Policy Options (HIV/AIDS in Eastern Europe and the Commonwealth of Independent States)," Bratislava: UNDP, 2004, pp. 17.

¹³ Irina Titova, "AIDS workers struggle to get message out," *Saint Petersburg Times*, November 29, 2002, p. 1.

each case identified by the health system.¹⁴ Pokrovsky said that Russia relies for its estimates both on results from the millions of HIV tests that are performed each year—approximately 24 million in 2003—and increasingly on small-scale surveys.¹⁵

In 2002, an estimated 93 percent of persons registered by the government as HIV-positive since the beginning of the epidemic were injection drug users.¹⁶ In contrast, in 2002 an estimated 12 percent of new HIV transmission was sexual—that figure climbed to 17.5 percent in the first half of 2003—indicating the foothold that the epidemic is gaining in the general population.¹⁷ The European Centre for the Epidemiological Monitoring of AIDS (EuroHIV), a center affiliated with the World Health Organization, noted that HIV prevalence may have “reached saturation levels in at least some of the currently affected drug user populations” in eastern Europe, including in Russia, but cautioned against complacency “as new outbreaks could still emerge among injection drug users..., particularly within the vast expanse of the Russian Federation.”¹⁸ Rhodes and colleagues in a February 2004 article echo this conclusion, noting evidence of recent examples of severe HIV outbreaks among drug users in Russia.¹⁹

Risk factors and government action

Beginning in about 1987, Russia and other Soviet states began establishing AIDS centers to address the disease. Unfortunately, the mission of these centers was not to provide information and preventive services to the population but rather to carry out a massive program of mandatory testing and official registration of persons with AIDS.²⁰ It is estimated that from 1987 to 1993 the Russian government conducted over 120 million HIV tests, largely on an involuntary basis, of “high-risk” persons, including drug users, gay and bisexual men, persons diagnosed with other sexually transmitted diseases, persons who had traveled abroad, and the sex partners of persons in these categories.²¹ Virtually none of these persons received counseling about HIV testing or HIV disease.

¹⁴ UNDP, *Reversing the Epidemic*, pp. 12-13.

¹⁵ Human Rights Watch interview with Dr. Vadim Pokrovsky, Moscow, February 26, 2004.

¹⁶ Central and Eastern European Harm Reduction Network (CEEHRN), “Injecting Drug Users, HIV/AIDS Treatment and Primary Care in Central and Eastern Europe and the Former Soviet Union,” July 2002, p. 6.

¹⁷ UNDP, “Reversing the Epidemic,” p. 16, and Tim Rhodes, Anya Sarang, Alexei Bobrik, Eugene Bobkov and Lucy Platt, “HIV transmission and HIV prevention associated with injecting drug use in the Russian Federation,” *International Journal of Drug Policy*, vol. 15, no. 1, February 2004, pp. 2.

¹⁸ European Centre for the Epidemiological Monitoring of AIDS (EuroHIV), “HIV/AIDS Surveillance in Europe: Mid-Year Report 2003 (no. 69),” 2003, p. 7.

¹⁹ Rhodes et al., 2004, pp. 2-3.

²⁰ Julie Stachowiak, “Systematic—forced—testing in Russia,” *Women Alive*, Summer 1996. Available at <http://www.thebody.com/wa/summer96/russian.html>. Retrieved December 10, 2002.

²¹ Kevin J. Gardner (AESOP Center), “HIV Testing and the Law in Russia,” 1995-96, [online], <http://www.openweb.ru/aesop/eng/hiv-hr/hiv.html>, (retrieved February 28, 2004); Stachowiak, “Systematic-Forced-HIV Testing in Russia.” By 1996, official statistics held that there were only 1150 HIV/AIDS cases.

In Russia today, blood donors, health workers who work regularly with HIV-positive patients, and persons presenting with a long list of diseases that are considered to be possible opportunistic infections linked to AIDS are required to be tested for HIV,²² though involuntary HIV testing has also been reported to continue for most inmates in prisons and pretrial detention facilities.²³ In March 2003, the Russian Ministry of Defense said it would ban HIV-positive persons from active military service, suggesting that new recruits would be tested for HIV.²⁴ In late 2002, the director of one of the biggest AIDS NGOs in Russia criticized the government for continuing to spend so much of the “meager” federal AIDS budget on testing.²⁵ By law, a person seeking a voluntary HIV test may do so anonymously; the law does not address the anonymity or confidentiality of HIV tests conducted under other circumstances.²⁶

Being in prison or other state detention is an important risk factor for HIV in Russia. A very high percentage of drug users in the FSU find themselves in state custody at some time in their lives. Injection drug use is reportedly widespread in Russian prisons, and HIV prevention services such as provision of sterile syringes, disinfectant materials for syringes and condoms are virtually absent.²⁷ Official statistics indicate that from 1996 to 2003, HIV prevalence in Russian prisons rose more than thirty-fold from less than one per 1000 inmates to 42.1 per 1000 inmates.²⁸ According to a 2002 report, about 34,000 HIV-positive persons—over 15 percent of the persons officially counted as HIV-positive in the country—were in state custody, of which the large majority found out about their HIV status in prison.²⁹ The Kresty pretrial detention facility in Saint Petersburg was reported in 2002 to have about 1000 HIV-positive persons among its 7800 inmates.³⁰ Some 300,000 prisoners are released

²² Russian Federation, Federal Law on Prevention of the Dissemination in the Russian Federation of the Disease Caused by the Human Immunodeficiency Virus, March 30, 1995, as amended in 1996, 1997 and 2000, article 9.

²³ Dr. Tatjana Smolskaya, Pasteur Institute of Saint Petersburg, “Impact of HIV/AIDS on Society,” presentation at the Northern Dimension Forum, Lappeenranta, Finland, October 22, 2001, p.1.

²⁴ “Russia to bar people living with HIV/AIDS, drug users from military service,” *Kaiser Daily HIV/AIDS Report*, March 17, 2003. The same announcement said that drug users and persons “of untraditional sexual orientation” would also be barred from service.

²⁵ Rian van de Braak, “Slaying the AIDS monster: No time to lose” (opinion), *Saint Petersburg Times*, November 29, 2002, p. 5. In February 2004, the Saint Petersburg health authorities estimated that 36 million rubles (U.S.\$1.24 million) was needed to cover HIV testing of the 65.5 million rubles (U.S.\$2.24 million) allocated for HIV/AIDS in 2001 to 2003.

²⁶ Federal Law on Prevention of the Dissemination in the Russian Federation of the Disease Caused by the Human Immunodeficiency Virus, article 8(2).

²⁷ See, e.g., David Holley, “Up to 1.5 million Russians have HIV, government says,” *Los Angeles Times*, April 18, 2003, at A1. Available at <http://www.aegis.com/news/lt/2003/LT030409.html> (retrieved March 10, 2004).

²⁸ G. Roshchupkin, “HIV/AIDS Prevention in Prisons in Russia,” in T. Lokshina, ed. *Situation of Prisoners in Contemporary Russia* (Moscow: Moscow Helsinki Group, 2003), p. 213; UNDP, *Reversing the Epidemic*, p.33.

²⁹ “Some facts about HIV in prisons,” *Prison Healthcare News*, issue no. 2, Summer 2002, p. 4.

³⁰ Mark Schoofs, “Jailed Drug Users Are at Epicenter Of Russia's Growing AIDS Scourge,” *Wall Street Journal*, June 25, 2002, p. A1.

each year from penal institutions in Russia,³¹ representing an important public health challenge.

Although a 2001 federal directive eliminated the previously obligatory practice of segregation of HIV-positive prisoners in Russian correctional facilities, many facilities still maintain separation of HIV-positive and HIV-negative prisoners.³² Such practices not only contribute to the stigma faced by inmates living with HIV/AIDS, but also may create a false sense of security around the idea that HIV transmission is absent or unlikely in the non-HIV-positive parts of the prison.³³

Commercial sex work in the region has become much more widespread since the fall of the Soviet Union. As in many parts of the world, in the FSU the exchange of sex for drugs and the use of sex work to support drug habits provide important links between injection drug use and commercial sex.³⁴ Dr. Chris Beyrer of Johns Hopkins University estimated in 2003 that some 40 percent of sex workers in Moscow were regular injectors of heroin.³⁵ Rhodes and colleagues note that studies from several locations in Russia estimate that between 15 and 50 percent of women injection drug users engage in sex work with some regularity. They also note that in some cities there are few HIV prevention or information services available, particularly for workers in the sex trade.

Surveys reveal a worrying deficit of knowledge in the Russian population about the basic facts of HIV and AIDS. A 2001 telephone survey of adults in Saint Petersburg indicated that one third of respondents believed that condoms did not protect against HIV, and 48 percent believed that HIV could be transmitted through kissing, 30 percent through cigarette-sharing, and 56 percent from mosquito bites.³⁶ A survey of 5000 Russians funded by the U.S. Agency for International Development found in 2001 that about 40 percent of respondents thought that a teacher who became HIV-positive should not be allowed to continue teaching. Less than 10 percent said they would patronize a grocery store run by an HIV-positive person.³⁷ Dr. Mikko

³¹ "Disease control in North West Russia," *Prison Healthcare News*, no. 4, Spring 2003, p. 6.

³² Roshchupkin, p. 213 ; "First published report of a visit to the Russian Federation highlights healthcare concerns," *Prison Healthcare News*, no. 5, Summer 2003, p. 6.

³³ Schoofs, 2002.

³⁴ Godinho et al., p. 3.

³⁵ Paul Webster, "HIV/AIDS explosion in Russia triggers research boom," *Lancet*, vol. 361, June 21, 2003, p. 2133.

³⁶ Yuri A. Amirkhanian, Jeffrey A. Kelly and Dmitri Issayev, "AIDS knowledge, attitudes and behaviour in Russia: Results of a population-based, random-digit telephone survey in Saint Petersburg," *International Journal of STD and AIDS*, vol. 12, no. 1, p. 50.

³⁷ The same survey showed low levels of condom use among adults and young people, including among those who had engaged commercial sex workers. Vani Vannappagar and Robin Ryder, "Monitoring sexual behavior in the Russian Federation: The Russia Longitudinal Monitoring Survey 2001," report submitted to the U.S. Agency for International Development, Carolina Population Center, University of North Carolina, April 2002, pp. 1, 10.

Vienonen, the WHO special representative for Russia, said: “AIDS is linked to sin, sex and drugs, and it is difficult to talk about these taboos,”³⁸ a problem hardly unique to Russia and one that many countries have overcome with well funded educational campaigns. The director of EuroHIV is one of many experts to have criticized Russia for allocating very little money to public awareness programs and HIV prevention more generally.³⁹ Dr. Pakrovsky echoed this conclusion, noting that the entire annual HIV prevention budget for the federal government in 2004 was less than U.S. \$1 million.⁴⁰

The low level of awareness of the basic facts of HIV/AIDS is probably an important determinant of discrimination and stigma suffered by people with AIDS, which has been shown by many accounts to be widespread in Russia. A 2003 study of 470 HIV-positive persons in Saint Petersburg, for example, found that 30 percent of respondents said they had been refused health care because of their HIV status. About 10 percent had been fired from their jobs or forced by family members to leave their homes. Almost half had been required by the police or by health professionals to sign documents acknowledging their HIV status, and 44 percent said they were required by physicians to give information about their sex partners or others they knew who took drugs.⁴¹

There is very little access to antiretroviral (ARV) treatment for persons with HIV/AIDS in Russia and the FSU, and there is even more limited access for injection drug users than for the rest of the population.⁴² The ARV drugs commercially available in Russia as of this writing are the brand-name products of multinational pharmaceutical companies. The Russian Federation has yet to register any generic ARV drugs for sale in the country. Federal officials told Human Rights Watch that a process was in place to register four generic ARVs, but they did not say when they thought those medicines would be available to the public.⁴³ Ukraine, Russia’s neighbor, which is estimated to have a somewhat higher HIV prevalence than Russia, has registered a number of generic antiretrovirals, and treatment is now available there for about U.S. \$700 per year, compared to the approximately U.S. \$12,000 annual cost of ARV treatment available in Russia.⁴⁴

³⁸ “Russian must lift taboo on AIDS, say health NGOs,” *Agence France-Presse*, November 27, 2002.

³⁹ Hamers and Downs, “HIV in central and eastern Europe.”

⁴⁰ Human Rights Watch interview, Dr. Vadim Pokrovsky, Moscow, February 26, 2004.

⁴¹ Yuri A. Amirkhanian, Jeffrey A. Kelly, and Timothy L. McAuliffe. “Psychosocial needs, mental health and HIV transmission risk behavior among people living with HIV/AIDS in Saint Petersburg, Russia,” *AIDS*, vol. 17, no. 16, November 7, 2003, pp. 2367-2368, 2370.

⁴² Central and Eastern European Harm Reduction Network, p.3.

⁴³ Human Rights Watch interviews with Dr. Vadim Pokrovsky and Dr. Alexander Golyusov, Moscow, February 26, 2004.

⁴⁴ Konstantin Lezhentsev, policy director, International Harm Reduction Development Program, Open Society Institute, paper presented at World Bank meeting on access to treatment in Russia, Moscow, February 25, 2004.

HIV/AIDS has reached Russia in the midst of what many observers have characterized as more than a decade of severe deterioration of health services following the fall of the Soviet Union. Since 1992, health spending by the Russian state has fallen by an estimated 75 percent, and life expectancy for men has tumbled below sixty years.⁴⁵ Tuberculosis is a long-standing problem in the country and has also become the most important opportunistic infection linked to HIV/AIDS. An estimated 30,000 persons die of tuberculosis each year in Russia.⁴⁶ In 2003, about 10 percent of inmates in the Russian penitentiary system were estimated to have active tuberculosis,⁴⁷ and as many as one third of these may have had the multi-drug-resistant variant.⁴⁸

The explosive increase in injection drug use is linked to a severe epidemic of hepatitis C,⁴⁹ a viral disease that is a major risk factor for fatal liver cirrhosis. In addition, Russia and its neighbors from the former Soviet bloc have experienced very large increases in the incidence of sexually transmitted diseases other than HIV (such as syphilis, gonorrhea and chlamydia), which are in turn risk factors for HIV transmission.⁵⁰ Treatment for sexually transmitted infections (STI) in Russia has often included registering patients as STI “carriers” and requiring them to identify their sexual partners.⁵¹ Drug users and sex workers are understandably not eager to seek treatment with these requirements.

Narcotic drug use in Russia

There is some controversy over the number of narcotic drug users in Russia. Dr. Vadim Pokrovsky of the Federal AIDS Center said that estimates of the number of active drug users in Russia in February 2004 ranged from 1 to 4 million, and he believed the high end of that range reflected the reality. On February 20, 2004, Alexander Mikhailov, the deputy director of the State Drug Control Committee (SDCC), a federal body, was cited in *Pravda* as saying that Russia had over 4 million drug users, and that the “gloomy prediction” of his office was that Russia could have

⁴⁵ Paul Webster, “Russia hunts for funds for ailing health service,” *Lancet*, vol. 361, February 8, 2003, p. 498.

⁴⁶ Nina Schwalbe and Persephone Harrington, “HIV and tuberculosis in the former Soviet Union,” *Lancet*, supplement to vol. 360, December 2002, p. S19.

⁴⁷ “Overcrowding in Russian prison system facilitates spread of tuberculosis, HIV, report says,” *Kaiser Daily HIV/AIDS Report*, July 24, 2003.

⁴⁸ Schwalbe and Harrington, p. S20.

⁴⁹ See, e.g., Dr. Tatjana Smolskaya, Pasteur Institute of Saint Petersburg, “Impact of HIV/AIDS on Society,” presentation at the Northern Dimension Forum, Lappeenranta, Finland, October 22, 2001, p. 5.

⁵⁰ See, e.g., United States Centers for Disease Control and Prevention, “Fact Sheet: Prevention and Treatment of Sexually Transmitted Diseases as an HIV Prevention Strategy,” available at <http://www.cdc.gov/hiv/pubs/facts/hivstd.htm> (retrieved March 10, 2004).

⁵¹ *Ibid.*

over 35 million drug users by 2014.⁵² In early January 2004, the executive secretary of the Commonwealth of Independent States, which includes twelve former Soviet states, predicted that in 2010 the twelve countries would have 25 million drug users of whom 10 million would be living with HIV/AIDS,⁵³ the vast majority in Russia.

There is no doubt that drug use and heroin use particularly have risen meteorically in Russia since 1990. Mikhailov said the total number of drug users had risen 900 percent in the decade ending in early 2004.⁵⁴ A Max Planck Institute study of the drug trade in Russia concluded that drug-related crimes increased twelve-fold from 1990 to 1999.⁵⁵ Many analysts have traced the dramatic rise in use of injected heroin since the fall of the Soviet Union to economic collapse and attendant rises in unemployment, poverty and desperation and to increased availability of cheap heroin trafficked through central Asia and across the former Soviet states.⁵⁶ Some observers have suggested that the aftermath of the events of September 11, 2001 in Afghanistan and central Asia has done nothing to stem the flow of heroin through the region and may even exacerbate it in the long run.⁵⁷ Mikhailov of the SDCC has told the press on numerous occasions that the United States military intervention in Afghanistan has contributed to heroin consumption in Russia because the Taliban had been able to suppress opium production before they were overthrown.⁵⁸ In 2003, Victor Cherkesov, head of the SDCC, said the drug trade in Russia was valued at about U.S. \$8 billion a year.⁵⁹

Drug-using practices are not uniform across the many regions of the vast Russian Federation, but some patterns have been described by researchers. The dominant

⁵² "In sad tally, Russia counts more than 4 million addicts," *Pravda*, February 20, 2004 [online], available at <http://newsfromrussia.com/main/2004/02/20/52421.html> (retrieved March 9, 2004).

⁵³ "CIS 2010: 25 million drug addicts, 10 million of them living with HIV," NewsInfo.ru, January 2, 2004 [online], available at http://www.tpaa.net/articles/reg_010504_cis_drugs.html (retrieved March 9, 2004).

⁵⁴ In sad tally, 2004.

⁵⁵ Max Planck Institute for Foreign and International Criminal Law, "Illegal Drug Trade in Russia: Final Report," Freiburg, Germany, October 2000, p. 3.

⁵⁶ See, e.g., Karl L. Dehne, Jean-Paul C. Grund, Lev Khodakevich, and Yuri Kobysheva, "The HIV/AIDS Epidemic among Drug Injectors in Eastern Europe: Patterns, Trends and Determinants," *Journal of Drug Issues* 29 (4), 1999; Julie Stachowiak and Chris Beyrer, John Hopkins Bloomberg School of Public Health, "HIV Follows Heroin Trafficking Routes," October 14, 2002 [online] http://www.eurasianet.org/health.security/presentations/hiv_trafficking.shtml (retrieved January 25, 2003).

⁵⁷ Nancy Lubin, Alex Klaitz, and Igor Barsegian, "Narcotics interdiction in Afghanistan and Central Asia: Challenges for international assistance" (report to the Open Society Institute), 2002.

⁵⁸ See, e.g., Vladimir Isachenkov, "Drugs from Afghanistan flood Russia," *Associated Press*, August 27, 2003 [online]. Available at www.cdi.org/russia/271-9.cfm (retrieved March 11, 2004). A similar conclusion regarding the post-Taliban opium industry in Afghanistan is found in "The Afghan plague: The rising tide of heroin feeds social ills and undermines the state," *Economist*, July 26, 2003, p. 14. This article says that good quality processed heroin as opposed to less processed opiates has been the export of choice from Afghanistan since 2002.

⁵⁹ "Russian drug trade valued at USD 8 billion a year," *Pravda*, April 17, 2003 [online]. Available at <http://english.pravda.ru/accidents/2003/04/17/46021.html> (retrieved March 10, 2004).

drug of choice overall in Russia remains injected heroin, but homemade preparations of ephedrine, including methamphetamine in a liquid form known as *vint* (meaning “screw”) are also widely injected.⁶⁰ Use of powdered or refined heroin builds on a longer tradition of consumption of home-produced opiates of various kinds. The reliance on drug preparations made in the home also established a tradition of group injecting. As Grund notes, it often happens that one person will provide some of the ingredients, one will provide the cooker and filters⁶¹ or other equipment, and so on, and the overall process is much cheaper when carried out in groups than by individuals.⁶²

Unfortunately, this tradition can also be associated with high risk of transmission of HIV and other pathogens. Group situations such as this lead frequently to the collective use of injecting equipment in Russia.⁶³ The 2004 review by Rhodes and colleagues noted that studies from all over Russia indicate a high prevalence of sharing needles—from 36 percent to 82 percent, depending on the city, and from 22 percent to 65 percent among drug users surveyed in Russian prisons.⁶⁴ In addition, researchers have recorded frequent use of practices that entail squirting drug preparations from one user’s syringe into another by “front-loading” (into a syringe from which the needle has been removed) or “back-loading” (into a syringe from which the plunger has been removed), both of which increase the risk of infectious disease transmission.⁶⁵

As of early 2004, there were an estimated seventy-five syringe exchange programs across the Russian Federation, of which forty-two were run by government institutions and thirty-three by NGOs.⁶⁶ Most of these provide drug users with sterile syringes as well as with counseling and information, condoms, and referrals to other health and social services. Fifty-six of the eighty-nine regions report having at least one functioning syringe exchange.⁶⁷ It is also legal in Russia to purchase syringes at

⁶⁰ Rhodes et al., 2004, p.4.

⁶¹ Cookers are bottle caps, spoons or any other item in which injectable drugs are heated to transform them from powder or other nonliquid form into an injectable solution. Filter refers to cotton, cigarette filters or other fibers that are used to remove solids from injectable liquid drug preparations.

⁶² Jean-Paul Grund, “A Candle Lit from Both Sides: The HIV Epidemic in Russia,” in Karen McElrath, ed. *HIV and AIDS: A Global View* (Westport, Connecticut: Greenwood Press, 2001). Excerpt available at http://johnranard.com/fire_within/candle_text_body.html (retrieved March 22, 2004).

⁶³ Tim Rhodes, Larissa Mikhailova, Anya Sarang, Catherine M. Lowndes, Andrey Rylkov, Mikhail Khutorskoy, Adrian Renton, “Situational factors influencing drug injecting, risk reduction and syringe exchange in Togliatti City, Russian Federation: A qualitative study of micro risk environment,” *Social Science and Medicine* vol. 57, 2003, p. 40.

⁶⁴ Rhodes et al., 2004, pp. 5-6.

⁶⁵ Rhodes et al., 2003, p.40; Grund, p. xx.

⁶⁶ Rhodes et al., 2004, p. 7.

⁶⁷ Human Rights Watch interview with Dr. Alexander Golyusov, director, HIV/AIDS Unit, Ministry of Health, Moscow, February 26, 2004.

a drug store. Studies in several locations in Russia have shown that drug stores are the most important source of syringes for most drug users.⁶⁸

The range of services and especially the counseling and information that are provided at syringe exchange points can make the utilization of these services a more promising avenue for HIV prevention than the purchase of syringes in drug stores. Significant reductions in risky behavior, including sharing of syringes, linked to participation in syringe exchange programs have been demonstrated repeatedly in Russia,⁶⁹ but such results have generally not been associated with drug store purchases of syringes. In an in-depth 2003 study of behaviors associated with drug use in the city of Togliatti, it was found that injection drug users who had syringe exchange programs as their main source of syringes were less than one third as likely to share syringes as those who reported drug stores as their major source.⁷⁰ There is also some evidence of higher rates of condom use among drug users who have contact with syringe exchange services compared to those whose have another principal source of syringes.⁷¹

Researchers have found that police harassment is one of the most important factors that exacerbate risky behavior among drug users in Russia. In a 2002 study of drug use in five Russian cities, 44 percent of drug users said they had been stopped by the police in the month prior to being interviewed, and two third of these said that their injecting equipment had been confiscated by the police.⁷² Over 40 percent added that they rarely carried syringes for fear of encountering the police with them. In the Togliatti study, Rhodes and colleagues found that fear of being arrested or detained by the police was the most important factor behind the decision of drug users not to carry syringes, which in turn was an important determinant of sharing syringes during injection.⁷³ This study concluded that drug users who had been arrested or detained by the police for drug-related offenses were over four times more likely than other users to have shared syringes in the previous four weeks. Drug users who feared the police in Togliatti tended to avoid not only syringe exchange services but also drug stores that sold syringes because police frequently targeted people buying syringes at such locations, a result also highlighted in a 2003 study of drug users in Moscow.⁷⁴

Narcotic drug policy in Russia: Recent developments

⁶⁸ See, e.g., Maxim N. Trubnikov, Lev N. Khodakevich, Dmitry A. Barkov, Dmitry V. Blagovo, "Sources of injecting equipment for drug users in Moscow, Russia," *International Journal of Drug Policy*, vol. 14, 2003, p.454.

⁶⁹ See review in Rhodes et al., 2004, p. 6.

⁷⁰ Ibid.

⁷¹ See review in Rhodes et al., 2004, p.8.

⁷² Cited in Rhodes et al., 2003, p.41.

⁷³ Rhodes et al., 2003, pp. 39, 45-46.

⁷⁴ Trubnikov et al., 2003, p.454.

Harm reduction programs, particularly needle exchange, have had unclear legal status in Russia. The 1996 Criminal Code of the Russian Federation defined as crimes the manufacture, acquisition, keeping, carriage, sending, or sale of illegal narcotics (article 228) and the “inclining to consumption” of illegal drugs (article 230), interpreted by most observers to refer both to consumption and to inducing another person to consume illicit drugs.⁷⁵ The 1998 Federal Law on Drugs and Psychotropic Substances similarly defines crimes related to the manufacture, use, and sale of illicit drugs and does not address harm reduction activities explicitly.⁷⁶ Expert observers noted in recent years that the lack of explicit treatment of harm reduction activities in the law has enabled law enforcement officials to interpret the law as prohibiting activities such as syringe exchange and particularly to charge that harm reduction activities can have the effect of promoting drug use.⁷⁷

In December 2003, article 230 of the Criminal Code on consumption of illicit drugs was amended to add the following commentary:

The given article does not cover promotion of use of relevant tools and equipment necessary for the use of narcotic and psychoactive substances, aimed at prevention of HIV infection and other dangerous diseases, when it is implemented with the consent of health and narcotic and psychotropic substances traffic control authorities.⁷⁸

This amendment was immediately hailed by some observers as a breakthrough for legal protection of harm reduction services. A press statement by the NGO International Family Health, which had funded Butler’s analysis of Russian drug law in 2003, was headlined “Harm reduction programs gain legal basis in Russian law” and pronounced the future of needle exchange programs in Russia to be “more secure.”⁷⁹

⁷⁵ Russian Federation, Criminal Code of the Russian Federation, June 13, 1996, as amended on May 27, 1998, Chapter 25, Crimes Against Health of the Populace and Social Morality.

⁷⁶ Russian Federation, Federal Law on Narcotic Drugs and Psychotropic Substances, Federal Law no. 3-03, January 8, 1998, as amended by Federal Law no. 116-03, July 25, 2002.

⁷⁷ See, e.g., William E. Butler, “HIV/AIDS and Drug Misuse in Russia: Harm Reduction Programmes and the Russian Legal System,” London, Family Health International, 2003, p. 11-13; and Transatlantic Partners Against AIDS, “On the Frontline of an Epidemic: The Need for Urgency in Russia’s Fight Against AIDS,” New York, 2003, p. 14.

⁷⁸ Federal Law no. 162, About amendments and additions to the Criminal Code of the Russian Federation, December 2003. The authors of these revisions were members of parliament Mikhail Zadornov of Yabloko and Alexander Barannikov of the Union of Right Forces. See Lev Levinson, “Novaia redaktsiia ugolovnogo kodeksa sopushtvuiushchie izmeniiia zakonodatel’sstva (New version of Criminal Code and accompanying legislative changes),” available at www.drugpolicy.ru (retrieved March 15, 2004).

⁷⁹ International Family Health, “Harm reduction programmes gain legal basis in Russian law” (press release), London, January 26, 2004 [online], www.ifh.org.uk/HR_legal.htm (retrieved March 5, 2004).

The amendment, however, also specified that the federal Ministry of Health and the Russian State Drug Control Committee (SDCC) should together formulate regulations for the operation of harm reduction services for drug users. The SDCC is a relatively new body, formed pursuant to a March 2003 edict of the State Duma and constituted in June 2003.⁸⁰ Its mandate is the coordination of the work of all federal departments whose work touches upon illicit consumption and trafficking of narcotics.⁸¹ In 2003, Butler estimated that the SDCC was given control over about 40,000 law enforcement agents, most of them transferred from the federal tax police force.

The new regulations for harm reduction programs were meant to be in place by March 2004 but had not been issued as of this writing. Since late 2003, the deputy chief of the SDCC, Alexander Mikhailov, has issued a number of statements that have caused concern among defenders of harm reduction and particularly syringe exchange programs. On November 19, 2003, Mikhailov issued an edict to regional drug control officials saying that programs that “exchange disposable syringes for drug abusers” constitute “open promotion of illegal drugs” and suggesting that regional authorities should consider whether there were grounds for invoking criminal law against operators of these services.⁸² The letter also suggested that authorities in countries such as the Netherlands, Switzerland, and Canada had disavowed harm reduction and particularly syringe exchange programs as erroneous policy leading to promotion of drug use, a patently untrue statement. There was a swift international reaction to this letter, denouncing the analysis and defending the HIV prevention record of syringe exchange services.⁸³

On February 16, 2004, Mikhailov issued another public statement on the subject, this time asserting that the SDCC would not ban syringe exchange programs, but rather sought to license them and ensure that they are carried out in government health facilities.⁸⁴ He said it was his personal view that syringe exchange services serve both a prevention and a treatment function, which some observers have taken to mean that he was suggesting HIV testing of drug users who seek sterile syringes at exchange services.⁸⁵ Lev Levinson, director of the New Drug Policy Project in Moscow, said that through this suggestion and in other ways, the SDCC had made it clear that it thought users of syringe exchange services should not be able to keep

⁸⁰ Isachenkov, 2003.

⁸¹ Butler, pp. 55-56.

⁸² Alexander G. Mikhailov, State Drug Control Committee of Russia, letter no. 509, November 19, 2003, made available in English by the New Drug Policy Project, Moscow.

⁸³ Human Rights Watch interview with Lev Levinson, director, New Drug Policy Project, Moscow, February 24, 2004. Human Rights Watch also wrote to the State Drug Control Committee in response to its statement.

⁸⁴ Interview with Deputy Director of Narcotics Control Committee Alexander Mikhailov: “We intend to shield Russia against narco-aggression (My namereny postavit zaslon narkoagresii protiv Rossii), Interfax, February 16, 2004. As of this writing, syringe exchange services are not required to be licensed.

⁸⁵ Human Rights Watch interview with Lev Levinson, Moscow, February 24, 2004.

their anonymity.⁸⁶ Mikhailov noted further that syringes should not be exchanged in mobile units such as buses, a measure that would hit NGOs especially hard since government-run needle exchange services tend to be in fixed health facilities whereas numerous NGOs run mobile units.

Mikhailov of the SDCC also asserted that drug users and former drug users should not be permitted to work in HIV prevention services for injection drug users, a suggestion that runs counter to the conclusion of UNAIDS and HIV service providers all over the world that peer-led education can be most effective for HIV prevention among drug users and other marginalized persons.⁸⁷ Kasia Malinowska-Sempruch, director of the International Harm Reduction Development Program of the Open Society Institute, which has supported syringe exchange and other harm reduction activities extensively in Russia and other former Soviet states, told Human Rights Watch:

It is a clear lesson of harm reduction programs since the earliest days that drug users and former drug users are among the most effective educators for reaching other drug users. It only makes sense—non-users will have a much harder time understanding the day-to-day challenges faced by drug users and persuading them of the importance of HIV prevention.⁸⁸

She also noted that there is that there is “an across-the-board global agreement that HIV prevention services need to be offered in a way to respect people's privacy and confidentiality—and this is especially crucial for drug users who are marginalized.”

A Ministry of Health statement in February 2004 expressed general support for HIV prevention activities among persons at risk of HIV/AIDS but did not address needle exchange specifically.⁸⁹ Dr. Alexander Golyusov, director of the HIV/AIDS unit in the Ministry of Health, emphasized to Human Rights Watch in February 2004 that no decision had been taken to shut down or curtail needle exchange, and he called the international and national reaction to Mikhailov's earlier letter “strong and

⁸⁶ Ibid.

⁸⁷ See, e.g., Yuri A. Amirkhanian, Jeffrey A. Kelly, Elena Kabakshieva, Timothy L. McAuliffe, and Sylvia Vassileva, “Evaluation of a social network HIV prevention intervention program for young men who have sex with men in Russia and Bulgaria,” *AIDS Education and Prevention*, vol. 15, no. 3, pp. 205-207 for an example of a successful peer-driven HIV outreach program and a review of other peer education efforts in Russia. For an analysis of peer education in HIV/AIDS programs globally, see UNAIDS, “Peer education and HIV/AIDS: Concepts, uses and challenges” (Best Practice Collection monograph), Geneva: UNAIDS, 1999.

⁸⁸ Human Rights Watch interview with Kasia Malinowska-Sempruch, director, International Harm Reduction Program, Open Society Institute, New York, March 11, 2004.

⁸⁹ Gennady Onishchenko, chief sanitary inspector of the Russian Federation, Ministry of Health, “On the Implementation of Measures to Counter the Spread of HIV Infection in the Russian Federation,” Directive No. 2, January 14, 2004.

appropriate.” He said the ministry saw it as very important to work respectfully with drug users on HIV prevention, “to treat them with humanity, and this will bring more benefits.”⁹⁰ He said the SDCC tends to see syringe exchange in a negative light but said that any decisions about regulation of needle exchange programs will be subject to interministerial approval. Golyusov also noted that he is opposed to needle exchange services that judge their own success simply by the number of syringes they distribute. “The main point is not in giving away needles, but the main thing is to work with people to change their mentality and understanding because giving away needles without consultation only brings harm,” he said.

The State Duma’s December 2003 amendment of the Criminal Code was also hailed as an opportunity to revise the criminal drug possession laws in Russia, which have historically defined harsh penalties for very small levels of individual possession of narcotics.⁹¹ In the late 1990s, Russia reduced by a factor of fifty the amount of heroin and other drugs the possession of which would entail mandatory imprisonment.⁹² Activists noted that the main motivation for the 2003 changes may have been to reduce the severe overcrowding of prisons.⁹³ The Duma’s amendments expressed the view that individual possession of “less than ten average doses” should not be a criminal offense but mandated the Ministry of Health and the SDCC to review by March 16, 2004 the definition of an individual dose.⁹⁴ The SDCC circulated a proposal that would have defined the minimum dose for criminal possession of heroin at 0.0001 grams, a dose smaller than any that Human Rights Watch could find on record among countries that define legal minimum amounts for criminal prosecution.⁹⁵ It also recommended corresponding minimum doses of 0.015 grams for cannabis and 0.0005 for methamphetamines.

⁹⁰ Human Rights Watch interview with Dr. Alexander Golyusov, director, HIV/AIDS Unit, Ministry of Health, Moscow, February 26, 2004.

⁹¹ See, e.g., “Russia’s new drug law in effect: No jail for drug users, greater penalties for traffickers,” *Drug War Chronicle*, no. 328, March 12, 2004. Available at <http://stopthedrugwar.org/chronicle/328/russia.shtml> (retrieved March 13, 2004).

⁹² Purchase of 0.005 grams of heroin was punishable by five to seven years in prison. See Daniel Wolfe and Kasia Malinowska-Sempruch, “Illicit Drug Policies and the Global HIV Epidemic: Effects of UN and National Government Approaches,” New York: Open Society Institute, 2004, p. 39. Activists have noted that a chart with this and minimum standards for other drugs was widely used in the judicial system but never formally codified into law. See Lev Levinson, “Russian drug policy: Need for a change,” presentation at conference on “Mobilizing Allies in Fight for Human Rights and Harm Reduction,” Budapest, July 1, 2003.

⁹³ *Ibid.*

⁹⁴ Russian Harm Reduction Network, Update on the Russian State Drug Control Committee and its position toward harm reduction (letter to Network members), March 12, 2004.

⁹⁵ The Czech Republic, for example, issued a prosecutorial instruction indicating that possession for personal use of amounts under 1 gram of heroin and the equivalent of less than 20 cigarettes worth of marijuana should not trigger criminal prosecution but rather administrative sanction. The laws of the fifty states of the U.S. vary considerably and depend in most cases on whether the infraction is a first-time offense. In Texas, for instance, which is considered to have strict laws, a first-time conviction of possession of up to 1 pound (453 grams) of marijuana by law results in a sentence of probation with mandatory drug treatment and a fine. In Portugal, as in many countries, possession of up to ten doses of drugs is handled as an administrative rather than criminal infraction. Portuguese drug law defines ten doses of heroin as 1 gram and ten doses of marijuana as 25 grams.

Reacting to this proposal, on March 11, Ella Pamfilova, chair of the Human Rights Commission at the Presidency of the Russian Federation, issued a statement to the prime minister denouncing the SDCC proposal. She noted that it would “distort the will of legislators who introduced a strictly differentiating approach between drug users and those who deal drugs.” Pamfilova offered the assistance of her commission in establishing more reasonable doses.⁹⁶ The Duma extended the deadline for a decision on the minimum doses until May 16, 2004.

Substitution (or replacement) therapy such as methadone maintenance therapy, which has been widely credited with controlling HIV transmission among injection drug users in many countries, is illegal in Russia, and the 2003 amendments to the drug law did not change this. Methadone is classified as “illicit” by the terms of the three United Nations conventions on drug control,⁹⁷ though most countries that are signatories to the conventions have methadone programs that are successful in substituting injected heroin with noninjected methadone. In this case, neither the SDCC nor the Ministry of Health seems necessarily disposed to review the status quo. Dr. Golyusov of the Ministry of Health said that he is concerned by first-hand accounts from drug users that methadone is more addictive or “harder to get off” than heroin and that other countries’ experiences have been “contradictory.”⁹⁸

The refusal of Russia to legalize methadone and support substitution therapy has been widely criticized by international experts. The Open Society Institute has noted that in criminalizing use of methadone, Russia is denying itself one of the potentially most effective tools at its disposal to stem the AIDS juggernaut it faces.⁹⁹ Dr. Robert Newman, an internationally renowned expert on substitution therapy, told Human Rights Watch:

See European Monitoring Centre for Drugs and Drug Addiction, “European Legal Database on Drugs,” at <http://eldd.emcdda.eu.int/home.shtml> (retrieved March 20, 2004), and National Organization for the Reform of Marijuana Laws, state information, at http://www.norml.org/index.dfm?wtm_view=&Group_ID=4575 (retrieved March 20, 2004). Many states that do not define minimal criminalizable amounts for personal possession have very harsh punishments for any amount of narcotics.

⁹⁶ Ibid. The Harm Reduction Network noted that the NAN Foundation of Russia, a private group that works on drug treatment and rehabilitation, convened an independent group of experts who recommended alternatives to the SDCC proposal for each category of drugs. That group’s recommendation for the minimum criminalizable dose for possession of heroin was 0.1 gram and for cannabis 1 gram.

⁹⁷ The three U.N. drug control conventions are the Single Convention on Narcotic Drugs of 1961, the Convention on Psychotropic Substances of 1971, and the Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 1988, and all are available at <http://www.incb.org/e/index.htm> (retrieved March 22, 2004).

⁹⁸ Human Rights Watch interview with Dr. Alexander Golyusov, February 26, 2004.

⁹⁹ Kasia Malinowska-Sempruch, Jeff Hoover, and Anna Alexandrova, “Unintended Consequences: Drug Policies Fuel the HIV Epidemic in Russia and Ukraine,” 2003, New York: Open Society Institute, p. 6.

It is unconscionable to have a condition as deadly as heroin addiction, and refuse to make available a medical treatment that has been found to be both safe and effective. A commitment to treating HIV/AIDS and curtailing its further spread to the general community is contingent upon treatment of intravenous substance use, and that treatment demands a key reliance on methadone maintenance if it is to reach a significant number of people. Refusal by the Russian authorities to permit the treatment of opiate addiction with methadone would be understandable if there were an alternative—any alternative; the fact is, however, there is none.¹⁰⁰

Substitution therapy with methadone or buprenorphine, another opiate substitute, has been available in most of the other former Soviet states for some years.¹⁰¹

¹⁰⁰ Human Rights Watch interview with Dr. Robert Newman, director, Baron Edmond de Rothschild Chemical Dependency Institute, New York, March 18, 2004.

¹⁰¹ Central and Eastern European Harm Reduction Network (CEEHRN), "Injecting Drug Users, HIV/AIDS Treatment and Primary Care in Central and Eastern Europe and the Former Soviet Union" (report of a survey), Vilnius, July 2002.

V. FINDINGS OF HUMAN RIGHTS WATCH'S INVESTIGATION

Introduction

With a population of about 5 million, Saint Petersburg (formerly Leningrad) is the second largest city in Russia. It has a major port on the Baltic Sea. In 2003, the city celebrated the three hundredth anniversary of its founding. Saint Petersburg and Moscow are the only cities in the Russian Federation that are politically autonomous units with legislative bodies independent of a regional or oblast-level government. In the area of health, for example, the city has its own Health Committee, which is able to make regulations within the bounds of federal law.

There is an active drug scene in Saint Petersburg and a historically higher rate of drug-related crime than in any other Russian city. In 1999 in Saint Petersburg, there were 315 drug-related offenses per 100,000 population, more than twice as high as Moscow's figure of 149 per 100,000.¹⁰² Reflecting the national increase in drug use but along a much steeper curve, drug-related crimes in Saint Petersburg rose twenty-fold from 1990 to 1999.¹⁰³ A five-city study of injection drug users in 2002 found that drug users in Saint Petersburg had the highest rate of recent needle-sharing of any of the cities, with 48 percent of the 221 users in the study reporting sharing in the thirty days prior to their first use of a needle exchange program.¹⁰⁴ The number of drug users in the city is unknown; one academic researcher put the figure at 100,000 in 2001.¹⁰⁵

The evolution of HIV/AIDS in Saint Petersburg has been relatively recent and very swift. Surveys indicated that HIV prevalence among injection drug users in the city was about 4 percent in 1998, 12 percent in 1999, 19 percent in 2000, and 36 percent in 2001.¹⁰⁶ As of February 2004, there were 21,900 officially registered persons living with HIV/AIDS—that is, people who tested positive for HIV in government health facilities—in the city of Saint Petersburg. City health authorities noted that they estimate the real figure of people living with HIV/AIDS to be closer to 50,000.¹⁰⁷ The Federal AIDS Center in Moscow estimated the prevalence of HIV in Saint Petersburg as of January 2004 to be 480 per 100,000 population, more than

¹⁰² Max Planck Institute, "Illegal Drug Trade in Russia," pp. 5-6.

¹⁰³ Ibid.

¹⁰⁴ Cited in Rhodes et al., 2004, p. 6.

¹⁰⁵ Dr. Tatjana Smolskaya, Pasteur Institute of Saint Petersburg, "Impact of HIV/AIDS on Society," presentation at the Northern Dimension Forum, Lappeenranta, Finland, October 22, 2001, p. 5.

¹⁰⁶ Ibid.

¹⁰⁷ Human Rights Watch interview with Dr. Elena Vinogradova, chief physician, Saint Petersburg City Health Committee, Saint Petersburg, February 17, 2004.

twice as high as the national average of 182 and well in excess of Moscow's rate of 363 per 100,000.¹⁰⁸

As in most of Russia, a high percentage of persons living with HIV/AIDS are injection drug users, though new transmission is growing among non-drug users. An estimated 91 percent of new HIV transmission in 2001 was linked to injection drug use, down to 85 percent in 2002.¹⁰⁹ HIV prevalence among pregnant women is often taken as a proxy for the spread of the disease in the general population. The Botkin Infectious Disease Hospital, which is meant to provide maternity services for HIV-positive women in Saint Petersburg, had an estimated 470 deliveries of newborns to HIV-positive women in 2003, compared to fifteen in 2000.¹¹⁰ A 2002 survey among university students in Saint Petersburg found that nearly 1 percent of them were HIV-positive,¹¹¹ an ominous result in a population not traditionally considered to be at high risk.

HIV/AIDS has affected other groups at risk in the city. The NGO Humanitarian Action, which is the descendant of another NGO that began providing HIV services for drug users in Saint Petersburg 1996, conducted a series of HIV prevalence surveys in collaboration with the United Nations Children's Fund (UNICEF) and the State Laboratory of Sanitation and Epidemiology. They found that the HIV prevalence in a sample of about 200 street children in 2000 was 8.0 percent but in 2001 and 2002 over 10.8 percent and 10.4 percent respectively.¹¹² Prevalence of hepatitis C in this population was 19 percent in 2000 and over 25 percent in 2002. Street children, of which there are estimated to be about 15,000 to 25,000 in Saint Petersburg, are vulnerable to drug use and sexual predators.¹¹³

Humanitarian Action estimated in early 2004 that more than 90 percent of the approximately 8000 sex trade workers in the city were injection drug users, the vast majority injecting heroin.¹¹⁴ A 2000 study found that women drug users who engaged regularly in sex work in Saint Petersburg had a 65 percent prevalence of HIV.¹¹⁵

¹⁰⁸ Russian Federation, Federal AIDS Center, Officially registered HIV cases by region of the Russian Federation, January 2004 [online], available at <http://www.afew.org/english/statistics/> (retrieved March 11, 2004).

¹⁰⁹ Humanitarian Action Fund, Project proposal (unpublished), Saint Petersburg, February 2004.

¹¹⁰ Human Rights Watch interview with Dr. Vladimir Musatov, deputy chief physician, Botkin Infectious Disease Hospital, Saint Petersburg, February 12, 2004.

¹¹¹ John Curtis, "On Russia's AIDS front," *Yale Medicine*, Spring 2003, p. 31.

¹¹² Humanitarian Action, "Street children in Saint Petersburg project" (leaflet), 2003.

¹¹³ Ibid.; Human Rights Watch interview with Elena Cherkassova, project coordinator, Street Children Project, Humanitarian Action, February 20, 2004.

¹¹⁴ Humanitarian Action Fund, Project proposal (unpublished), Saint Petersburg, February 2004, p.5.

¹¹⁵ Rhodes et al., 2004, p. 3.

Official actions on HIV/AIDS in Saint Petersburg

The city of Saint Petersburg has taken many positive steps to combat both the AIDS epidemic and discrimination faced people living with and affected by HIV/AIDS. The AIDS Center of the city instituted a confidential system of registration of people who test positive for HIV/AIDS by which new infections are noted without using the name of the person tested.¹¹⁶ According to the experience of the people with AIDS interviewed by Human Rights Watch, the confidentiality of test results is respected by the AIDS Center. The City Duma also took the unusual step in 2002 of issuing regulations to health workers outlining their responsibilities to treat people with HIV/AIDS. This measure was, at least in part, a response to a number of incidents in which HIV-positive persons were refused care at city health facilities.¹¹⁷

The AIDS Center of Saint Petersburg has developed innovative computer-based education programs on HIV/AIDS and other sexually transmitted diseases for students in the city's schools, a previously neglected population for such education. Numerous AIDS activists said Dr. Aza Rakhmanova, the city's senior infectious disease physician, has been an outspoken advocate for treatment access for people with HIV/AIDS. The Botkin Infectious Disease Hospital, which along with the city AIDS Center receives persons with AIDS, including pregnant women, for treatment and care, has welcomed collaborations with nongovernmental organizations for HIV prevention and counseling of people with AIDS.¹¹⁸ Persons with HIV/AIDS and injection drug users who spoke to Human Rights Watch had many positive things to say about these initiatives and the city's services for people with HIV/AIDS.

On World AIDS Day (December 1) 2003, civil society groups in Saint Petersburg organized a rally in favor of the rights of persons living with HIV/AIDS, including the right to antiretroviral (ARV) treatment. The event drew about a thousand people, unprecedented for an AIDS-related event in the Russian Federation. The focus of much of the rally was the need for antiretroviral treatment for people with AIDS and the activists' contention that many people with AIDS in the city were unable to benefit from the government's limited ARV program. On February 10, 2004, the governor (mayor) of Saint Petersburg, Valentina Matvienko, told the press: "No matter how much money has to be spent, we cannot leave those who are sick without treatment. Whatever the circumstances, money for this purpose will be allocated."¹¹⁹ In early 2004, the city government provided the great majority of funds for AIDS

¹¹⁶ Human Rights Watch interview with Dr. E. Vinogradova, February 17, 2004.

¹¹⁷ Ibid.

¹¹⁸ Human Rights Watch interview with Dr. Vladimir Musatov, deputy chief physician, Botkin Infectious Disease Hospital, Saint Petersburg, February 12, 2004.

¹¹⁹ "U 40 Piterburgskikh detei podtverzhden diagnoz VICH-infektsii," *Agentstvo Biznes Novostei*, February 10, 2004.

programs in the city; the federal contribution accounted for a small percentage of the funds used.

In spite of the important actions taken by the city to fight HIV/AIDS, Human Rights Watch's investigation found a number of areas in which human rights violations impede the ability of people at risk of HIV/AIDS to protect themselves from the disease and the ability of people already living with the disease to live lives free of discrimination and abuse. These include police harassment and other impediments to HIV prevention services, other harassment of drug users in the law enforcement system, the absence of HIV prevention services for drug users in prison, and discrimination linked to popular misconceptions of HIV/AIDS.

Impediments to HIV prevention for injection drug users

As of early 2004, there were officially four syringe exchange facilities in Saint Petersburg—the mobile service of the NGO Humanitarian Action, the fixed facility supported by Humanitarian Action and linked to the Botkin Infectious Disease Hospital, the service run out of the government AIDS Center, and a fourth facility at the government center for drug addiction or “narcology” center.¹²⁰ Several people told Human Rights Watch that this last center was not very active. Based on the experience of both drug users and service providers who spoke to Human Rights Watch, however, the most important source of sterile syringes for injection drug users is drug stores, which are permitted to sell syringes to adults in unrestricted numbers. The cost of a syringe at an all-night drug store in February 2004 was 3 rubles (U.S. \$0.10). State-supported impediments to access to both needle exchange points and drug stores represent important barriers to HIV prevention.

Drug users repeatedly told Human Rights Watch that police patrols of drug stores, especially all-night drug stores, deterred them from purchasing syringes. Boris K., age twenty-five, who spoke to Human Rights Watch shortly after exchanging several hundred syringes at the mobile syringe exchange of Humanitarian Action, said, “There are problems [for drug users] in the drug stores....Sometimes the staff of the store signal the police, or there are police hanging around, inside and outside.” Natalya R., twenty-six, a former drug user, noted: “They were trying to do something good by keeping some drug stores open twenty-four hours. Night time is the most dangerous time for drug users; it’s the time they shoot. But only a few of the stores are open, and they are all controlled by the police—sometimes police in uniform, sometimes plain clothes.”¹²¹ “No one will buy syringes at night from a drug store – it’s too dangerous. Sometimes there are even police officers in the drug stores,” said Maria K., twenty-eight.

¹²⁰ Human Rights Watch interview with Dr. V. Musatov, February 12, 2004.

¹²¹ Human Rights Watch interview with Fyodor N., Saint Petersburg, February 21, 2004.

Vladimir A., thirty-six, who characterized himself as an experienced drug user, noted: “A lot of users will just think that it’s better to use old needles than to have contact with the police. Police can hang out where the [needle exchange] bus stops or near the drug stores where you can buy syringes. If they catch you with syringes, even if you have no heroin, you can be arrested or have to pay \$500. Some drug stores even signal the police [when someone buys needles].” Viktor B., twenty-two, a former drug user said: “I myself lived in a neighborhood [where the police patrolled the drug store]. They just stand there the whole night and wait for the young ones,” he said. Noting that there were times when drug users judged it unwise to approach drug stores, he explained other means of needle access: “We didn’t throw out our old ones. We tried to take them and wash them, and we would put them in a safe place where we could find them again.” Human Rights Watch researchers twice visited all-night pharmacies at midnight in Saint Petersburg and encountered a police patrol on one of these occasions, but we were not impeded or questioned when we purchased syringes.

Programs that exchange sterile syringes for new ones provide an alternative source of syringes to drug stores and also provide counseling and referral to health care and other services for drug users. In Saint Petersburg, the NGO Humanitarian Action has been operating a mobile syringe exchange service in a large bus since 1997. In early 2004, the bus served as many as seventy clients per day.¹²² According to the staff of Humanitarian Action, police interference with the syringe exchange bus was a problem in the early years but had lessened in recent years. Human Rights Watch spoke with one drug user who said he was harassed by the police near the needle exchange bus in 1999 and another who said a friend of his was accosted by the police after having visited the bus in 2001.¹²³

Even if these incidents are in the past, the fear of apprehension by the police kept some drug users from using the bus-based exchange. “The bus is out in the open. Everyone can see it; there’s nowhere to hide,” said Ilya S. “If I had to come all the way across town, I wouldn’t do it,” said Pavel O., who lived near one of the regular stops of the bus. Dimitry L., twenty-six, noted: “Some don’t go to the bus even if they are close by because they’re afraid of the police. One time [in May 2003] I came to the bus with my car, not to exchange needles but just to help out on the bus. I parked by the bus. I had the sticker in my windshield [showing his affiliation with the NGO that ran the bus], but the police came to my car three times to ask me what I was doing there. These are isolated incidents but they happen.”

Dr. Igor Piskarev, project coordinator at the Botkin syringe exchange, said that fear of encountering the police was for some drug users a barrier to using fixed as well as mobile syringe exchange facilities. He noted: “Of course not all drug users come to

¹²² Human Rights Watch interview with Daniel Novitchkov, program assistant, Humanitarian Action, Saint Petersburg, February 12, 2004.

¹²³ Human Rights Watch interviews with Vladimir A., Saint Petersburg, February 13, 2004, and with Fyodor N., Saint Petersburg, February 19, 2004.

a place like this....Saint Petersburg is a big city. For many of them it's a long trip. On the way back they would have syringes, and the police might bother them." He added: "The central authorities of the police understand the services and they normally support the idea, but sometimes they need to fill their detention quotas."¹²⁴ Anna Chikhacheva, a social worker at the exchange, noted: "Carrying the used syringes to the center could also be a problem....The police just want money. Sometimes they don't even take the needles."¹²⁵ Piskarov suggested that having needle exchange sites in more neighborhoods would help resolve these problems.

Several drug users told Human Rights Watch that they were detained simply for carrying syringes, which is not against the law in the Russian Federation, or for having needle marks on their arms. "I was found with syringes," explained Fyodor N., age twenty-three:

For syringes, they would take us away and keep us in jail. The main reason why they arrest you is to find out the places where the dealers are. But if you tell [on the dealers], your circle will find out, and then you're in trouble. But the police ask a straightforward question: "where do you buy?". If you have a syringe and you're a drug user and say you don't know, you're lying....They make you choose right away—put you in an isolation cell right off, or they take you to meet up with your drug seller.¹²⁶

He noted, as did several other interviewees, that paying off the police could end either the detention or the forced identification of dealers if the sum paid were sufficient.

In the last few years, Humanitarian Action, the NGO with the longest experience of syringe exchange services in Saint Petersburg, took the innovative step of making overtures to the city police department to talk about the importance of syringe exchange for HIV prevention. Alexander Tsekhanovitch, president of Humanitarian Action, said: "I visited with all the police chiefs in the district. They're very smart and well educated, and they absolutely understand what we're doing. But, they say, remember we get medals for arresting drug users. We can't say to our people 'stop arresting drug users'; this is how their performance is evaluated." In spite of this constraint, Humanitarian Action was able to organize a training session in late 2003 for a number of police officers that included the participation of former drug users and people living with HIV/AIDS.

As noted by Dr. Igor Piskarev above, for drug users who cannot or choose not to purchase syringes at drug stores, harassment by police on the street is a concern because there are so few syringe exchange points. The health professionals

¹²⁴ Human Rights Watch interview with Dr. Igor Piskarev, Saint Petersburg, February 12, 2004.

¹²⁵ Human Rights Watch interview with Anna Chikhacheva, social worker, Humanitarian Action, Saint Petersburg, February 12, 2004.

¹²⁶ Human Rights Watch interview, Saint Petersburg, February 21, 2004.

interviewed by Human Rights Watch were not in complete agreement on the need for more syringe exchange services. Dr. Musatov of Botkin Hospital, for example, characterized three fixed needle exchanges and a mobile service for a city like Saint Petersburg as a “low level of access,” but Dr. Vinogradova, the chief physician of the City Health Committee, judged that the existing services were sufficient to meet the demand.¹²⁷

National and international law and HIV prevention among drug users

Article 41 of the Constitution of the Russian Federation guarantees the right of all citizens to “the right to health care and medical assistance” and further stipulates that medical assistance “shall be made available by state and municipal health care institutions to citizens free of charge with the money from the relevant budget, insurance payments and other revenues.”¹²⁸ Article 19 of the Constitution provides broad protection from discrimination in the realization of the rights accorded to citizens by the Constitution.

Under international law, individuals have a human right to obtain life-saving health services without fear of punishment or discrimination. This report describes actions of the state that directly obstruct injection drug users’ ability to protect themselves from infectious disease and other health complications associated with drug use. The International Covenant on Economic, Social and Cultural Rights (ICESCR), which has been ratified by the Russian Federation, recognizes in article 12 “the right of everyone to the enjoyment of the highest attainable standard of health.”¹²⁹ The ICESCR requires all the steps necessary for “the prevention, treatment and control of epidemic... diseases,” which include “the establishment of prevention and education programs for behaviour-related health concerns such as sexually-transmitted diseases, in particular HIV/AIDS.”¹³⁰ Realization of the highest attainable standard of health not only requires access to a system of health care; it also requires, according to the U.N. Committee on Economic, Social and Cultural Rights, that states take affirmative steps to promote health and to refrain from conduct that limits people’s abilities to safeguard their health.¹³¹ Laws and policies that “are likely to result in... unnecessary morbidity and preventable mortality” constitute specific breaches of the obligation to respect the right to health.¹³²

¹²⁷ Human Rights Watch interviews with Vladimir Musatov, February 12, 2004, and Elena Vinogradova, February 17, 2004.

¹²⁸ Constitution of the Russian Federation, adopted December 12, 1993, as amended in 1996, 2001 and 2003, art. 41(1).

¹²⁹ ICESCR, art. 12(2)(c).

¹³⁰ Committee on Economic, Social and Cultural Rights, “General Comment No. 14: The right to the highest attainable standard of health,” November 8, 2000, para. 16. The Committee on Economic, Social and Cultural Rights is the U.N. body responsible for monitoring compliance with the International Covenant on Economic, Social and Cultural Rights.

¹³¹ *Ibid.*, para. 33.

¹³² *Ibid.*, para. 50.

State action to impede people from attempting to protect themselves from a deadly epidemic is blatant interference with the right to the highest attainable standard of health. There is no dispute as to the effectiveness of sterile syringes in preventing HIV, hepatitis C and other blood-borne infections. Public health experts are unanimous in the view that providing access to sterile syringes neither encourages drug use nor dissuades current users from entering drug treatment programs.¹³³ The reality is that the near absence of humane drug treatment programs in Russia and the very nature of drug use guarantee that there will always be people who either cannot or will not stop using drugs. Impeding this population from obtaining or using sterile syringes amounts to prescribing death as a punishment for illicit drug use.

Multilateral organizations such as the World Health Organization (WHO) and the Joint United Nations Programme on HIV/AIDS (UNAIDS) have issued numerous nonbinding guidelines and declarations on combating the spread of HIV through public health approaches to drug use. A WHO Fact Sheet on HIV prevention lists syringe exchange and pharmacy sale of syringes as “the two strategies that have proven effective” at reducing HIV transmission among injection drug users.¹³⁴ At the June 2001 United Nations General Assembly Special Session (UNGASS) on HIV/AIDS, member states included in their final declaration of commitment a pledge to make available by 2005 “a wide range of prevention programs” including “sterile injecting equipment” and “harm-reduction efforts related to drug use.”¹³⁵ The U.N. Commission on Narcotic Drugs (CND) has failed to support such efforts, but in March 2002 it adopted a resolution on HIV and drug use that “encourages Member States to implement and strengthen efforts to raise awareness about the links between drug use and the spread of HIV, hepatitis C and other blood borne viruses” and “further encourages [them] to consider the potential impact on the spread [of these diseases] when developing, implementing and evaluating policies and programs for the reduction of illicit drug demand and supply.”¹³⁶

The 1998 UNAIDS/Office of the High Commissioner for Human Rights (OHCHR) International Guidelines on HIV/AIDS and Human Rights, which represent the consensus of governmental and nongovernmental experts as well as networks of people living with HIV/AIDS, recommend that national public health laws “fund and empower public health authorities to provide a comprehensive range of services for

¹³³ See summary of studies in Human Rights Watch, *Injecting Reason: Human Rights and HIV Prevention for Injection Drug Users*, New York: September 2003, especially pp. 49-51.

¹³⁴ World Health Organization, “Fact Sheet 12: Strategies for Prevention of HIV,” [online] http://www3.who.int/whosis/factsheets_hiv_nurses/fact-sheet-12/ (retrieved March 12, 2004). A more detailed WHO endorsement of harm reduction strategies, including syringe access interventions, can be found at <http://www.who.int/hiv/topics/harm/reduction/en/> (retrieved March 12, 2004).

¹³⁵ United Nations General Assembly, “Declaration of Commitment on HIV/AIDS,” June 27, 2001.

¹³⁶ Commission on Narcotic Drugs, “Human immunodeficiency virus/acquired immune deficiency syndrome in the context of drug abuse,” Resolution 45/1, March 15, 2002.

the prevention and treatment of HIV/AIDS, including... clean injection materials.”¹³⁷ The Guidelines further urge that domestic criminal laws not impede efforts to reduce HIV transmission among injection drug users; specifically, the authorization of syringe exchange programs and the repeal of prohibitions on syringe possession should be considered.¹³⁸

Other harassment and abuse of drug users and sex workers in the law enforcement system

Numerous drug users and service providers in Saint Petersburg told Human Rights Watch that police target drug users for certain kinds of abuse in addition to those noted above, including a wide range of abuses of due process in the arrest and detention of drug users. To the extent that this is the case, these abuses may contribute to drug users’ fear of seeking out services for prevention of HIV and other diseases, particularly where such services involve walking long distances in places where police may be active. Pavel O., thirty-eight years old, recounted the events of his detention by police in March 2003. He said he had never before had problems with the police.

It was probably a set-up. I was trying to sell my apartment and many people knew that. The police knew that I might have a lot of money. That night I had ephedrine on me, but the police said it was heroin. I was walking close to the police station; it would be stupid to carry heroin around there—everyone knows that. The police were trying to get big money from me. They asked for 500 dollars; they wouldn’t ask straight off for so much without knowing that they could get it. [During my two-day detention] there was no talk of food. They even took my aspirin away from me—I had the flu. The reason they let me go was that I was so sick that I couldn’t understand what they were asking me. But I had to sign a city arrest warrant. They detain a person and wait until he desperately wants drugs, and then they ask him for his contacts. The first question is always “Do you have any money?” If not, “Is there anyone who can help you [to get money]?” They’re not even interested in where you got your drugs, just how much money you can pay now and how much later.¹³⁹

Like a number of drug users interviewed by Human Rights Watch, Pavel O. was unable to afford legal counsel and was provided a lawyer by the city. “You don’t pay for one of those, and that’s why the service is like it is. He barely uttered a word.

¹³⁷ OHCHR/UNAIDS, “HIV/AIDS and Human Rights: International Guidelines (1996),” Guideline 3, para. 28(a).

¹³⁸ Ibid., Guideline 4, para. 29(d).

¹³⁹ Human Rights Watch interview with Pavel O., Saint Petersburg, February 13, 2004.

When the judge asked if the prosecution's argument was right, he just nodded. I tried to speak myself, but the judge was irritated," he said.

Several drug users described being forced by police to incriminate others as a condition of avoiding arrest or long detention. Dmitry L., twenty-four, described an incident from 2003:

I was detained at the entrance to the building where drugs were being sold. They asked me to buy drugs in front of them [so they could see the dealer]. When I refused, they started beating me on the arms and legs and hit me with a gun. They took me to the station, but I was released the next morning. They threatened to plant drugs on me, but for some reason I was lucky, and they finally lost interest.¹⁴⁰

In addition to the fear of being caught with syringes by the police, numerous drug users told Human Rights Watch that police check the arms of people they suspect of being drug users, and if they find marks that indicate injection drug use, the user or former user is vulnerable to wide range of abuses. Boris K., twenty-five, an injection drug user, told Human Rights Watch:

I've been stopped by the police. They ask me where I'm headed. Drug users are not considered people; they can do anything to you. They just classify people in their minds—drug users at the bottom, then alcoholics and gypsies. They believe drug users are always at fault. They judge you by your appearance. They make you show them your arms, and if they see needle marks, they demand money—you pay or you can be detained. I did get detained, but another time I just put 100 rubles [U.S. \$3.45] in my passport and I got off; it just happens that way.¹⁴¹

Alexander Rumantsyev, director of the NGO Delo, which provides support to people with HIV/AIDS and drug users, said "planting drugs is common. If the police stop a drug user and see needle marks on his arm, they plant drugs and then beat him or do what they want."¹⁴² Viktor B., who eventually served two short prison sentences for drug use and drug dealing, recounted his experience: "I knew where to get heroin, and others didn't know, so they gave me money and I went and bought it. There wasn't a lot; the police planted more."¹⁴³ Josef R., twenty-three, a former drug user, said that users, once in detention, have to be aware that they are vulnerable to extra

¹⁴⁰ Human Rights Watch interview, Saint Petersburg, February 19, 2004.

¹⁴¹ Human Rights Watch interview, Saint Petersburg, February 12, 2004.

¹⁴² Human Rights Watch interview with Alexander Rumantsyev, Saint Petersburg, February 11, 2004.

¹⁴³ Human Rights Watch interview with Viktor B., Saint Petersburg, February 21, 2004.

charges being pinned on them. “If you’re weak, they will charge you—you can’t be weak,” he said.¹⁴⁴ These and other persons interviewed by Human Rights emphasized that, in their experience, paying off the police would result in release.

Rumantsyev, who has followed the legal disposition of the cases of a number of drug users, noted that the acquittal rates against drug users in the Saint Petersburg area are near zero.¹⁴⁵ This rate would mirror very low acquittal rates previously reported in Russia by Human Rights Watch and others.¹⁴⁶

The Saint Petersburg-based NGO Humanitarian Action provides services to sex workers and estimates that the great majority of them, perhaps as many as 90 percent, are also drug users and that many of them turned to sex work because of the financial demands of finding narcotics.¹⁴⁷ Like drug users not involved in the sex trade, women sex workers interviewed by Human Rights Watch faced regular harassment by police, who apparently regarded them as a source of both money and sex. Ludmila F., twenty-nine, described her experience:

If they [police] come and we don’t have money, they take us to the police [station]—100 rubles [U.S. \$3.45] [as a fine] each time. The amount of money also depends on how many police cars come. Sometimes they come several times a day. So they take us to the police station sometimes for the whole day—twenty-four hours—depending on the mood of the officer on duty and whether he is drunk or not, then let us go. Sometimes they beat us, make us wash floors in the police station. They may make us have oral sex with them for free.¹⁴⁸

Sex workers said both the charges brought against them and the fines levied are arbitrary and seem to depend on the whim of the particular police officer. “They fined me 1500 rubles [U.S. \$51.72] for prostitution. It used to be 64 rubles [U.S. \$2.21]; now it’s 1500....They just said I should pay and go....The hearing was like that—they came in the court room and then just went out,” said Elena A.¹⁴⁹ Yulia L.,

¹⁴⁴ Human Rights Watch interview, Saint Petersburg, February 19, 2004.

¹⁴⁵ Human Rights Watch interview, Saint Petersburg, February 11, 2004.

¹⁴⁶ Human Rights Watch, *Confessions at Any Cost: Police Torture in Russia*, New York, November 1999, p. 118, quotes a 1998 estimate of the overall acquittal rate in the country of 1 in 200 cases. A 2003 *Economist* article cites the chief prosecutor of Russia “boasting” that the acquittal rate had reached 0.8 percent. See “Still Mourning Stalin,” *Economist*, February 27, 2003, p. 18. Human Rights Watch’s report noted that judges knew that the finding of guilt would require little work and would not be questioned but that acquittals would be closely scrutinized by their superiors.

¹⁴⁷ Human Rights Watch interview with Anna Chikhacheva, Saint Petersburg, February 12, 2004.

¹⁴⁸ Human Rights Watch interview with Ludmila F., Saint Petersburg, February 18, 2004.

¹⁴⁹ Human Rights Watch interview with Elena A., Saint Petersburg, February 18, 2004.

thirty-six, said the police detained her once or twice a month in the last year, sometimes for hooliganism and sometimes for drugs, and that the penalties varied and sometimes included free sex.¹⁵⁰ “Sex workers and drug users are a big source of income for the police,” said Anna Chikhacheva, a social worker who coordinates Humanitarian Action’s activities with sex workers.

In their harassment especially of drug users and sex workers, the police find themselves the beneficiaries of a “win-win” proposition. They can be rewarded officially for filling their detention quotas, and they can be rewarded informally in whatever payments they can extort from drug users or sex workers detained or threatened with detention. Since drug users and sex workers are widely regarded in society as undesirable elements, the police face little risk of social censure in these actions.

Another drug control activity of the police that has been cited by activists in Saint Petersburg and Moscow as a threat to human rights is the practice of nightclub raids by narcotics police. Most of the drug users interviewed by Human Rights Watch said they did not frequent nightclubs, but several expressed concern about this practice as one more restriction on their right to be free from arbitrary arrest and detention. Press reports of high-profile raids in Saint Petersburg and Moscow in late 2003 noted that nightclub patrons in these raids have been forced to show their arms, been forcibly searched, been made to wait for hours standing pressed up against a wall or face down on the floor, and in some cases been required to give a urine sample.¹⁵¹ Commenting to the press after one such raid in Moscow, SDCC deputy chief Alexander Mikhailov noted that the law permits these raids and said: “If necessary, we will raid the Moscow Conservatory.”¹⁵²

National and international law related to these abuses

Article 3 of the Law on the Police of the Russian Federation provides that “the activities of the police [be] conducted in accordance with principles of respect for human rights and freedoms, lawfulness, humanism and transparency/openness.”¹⁵³ A similar article in the criminal procedure code (article 9) prohibits torture and cruel and degrading treatment. Violations of these principles, including coercion of detainees described to Human Rights Watch by numerous current and former drug users, are punishable according to the terms of article 302 of the Criminal Code of Russia, which states:

¹⁵⁰ Human Rights Watch interview with Yulia L., Saint Petersburg, February 18, 2004.

¹⁵¹ Sergey Chernov, “Drug squad raids Griboyedov nightclub,” *Saint Petersburg Times*, September 30, 2003, p. 1; “Gosnarkokontrol’ gotov provesti reidi v nochnykh klubakh konservatorii,” *Mednovosti*, December 19, 2003. Available at <http://mednovosti.ru/news/2003/12/18/club/> (retrieved March 12, 2004).

¹⁵² Mednovosti *ibid*.

¹⁵³ Law of the Russian Soviet Federal Socialist Republic on the Police, as amended March 31, 1999.

Coercion of a suspect, defendant, victim [of crime] or witness into giving testimony or coercion of an expert into giving a conclusion by means of threats, blackmail or other unlawful means by an investigator or person carrying out the inquiry is punishable by deprivation of freedom for a period of up to three years.¹⁵⁴

In addition, article 21(2) of the Criminal Procedure Code prohibits torture, cruel and degrading treatment. The criminal code makes torture and cruel and degrading treatment a criminal offense in articles 117 and 302.

Several Russian statutes stipulate the conditions under which persons can be detained by the police. According to the Law on the Police, police officers may only request a person's identification documents if "sufficient ground" exists that that person committed a criminal offense or misdemeanor.¹⁵⁵ Should the person be unable to identify him or herself, the police may detain him for up to three hours for identification purposes. There are a number of other well defined circumstances in which police may detain an individual.¹⁵⁶ The practice of frequent detention of suspects rather than the use of other measures of restraint, even for nonviolent first-time offenders, has been criticized internationally, including by the U.N. special rapporteur on torture.¹⁵⁷

In international law, article 9 of the International Covenant on Civil and Political Rights (ICCPR) stipulates that "no one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedures as are established by law."¹⁵⁸ This principle is echoed in section 1.5(5.15) of the Organization for Security and Cooperation in Europe (OSCE) Copenhagen Document, which also guarantees *habeas corpus*:

¹⁵⁴ Criminal Code of the Russian Federation, Federal Law of June 13, 1996 with numerous amendments, article 302.

¹⁵⁵ Russian Federation, Law on the Police, article 11(2).

¹⁵⁶ According to article 91 of the Criminal Procedure Code of the Russian Federation, police may detain an individual suspected of committing a criminal offense only if one of the following criteria is met: (1) the individual is caught in the act of committing the crime, or immediately following; (2) witnesses, including victims, directly identify the individual as the one who committed the crime; (3) on the body of the person, on his clothing, in his possession, or in his place of residence, are found clear traces of the committed crime; or (4) in the presence of other information that gives grounds to suspect the individual of committing the crime, he can be detained only when the individual has attempted to escape, he does not have a permanent place of residence, or the identity of the suspect has not been established. The law on administrative offenses, article 27(3), allows police officers to detain persons for committing administrative offenses, or misdemeanors, in a limited number of cases. Detention of a person on administrative charges, that is short-term deprivation of liberty of a physical person, may be applied in exceptional circumstances if it is necessary to ensure the proper and timely consideration of a case regarding a misdemeanor or the execution of a ruling in a case regarding a misdemeanor.

¹⁵⁷ Report by the U.N. Special Rapporteur on Torture, Sir Nigel Rodley, November 16, 1994, E/CN.4/1995/34/Add.1.

¹⁵⁸ International Covenant on Civil and Political Rights, G.A. res. 2200A (XXI), 21 U.N. GAOR Supp. (No. 16) at 52, U.N. Doc. A/6316 (1966), 999 U.N.T.S. 171, entered into force Mar. 23, 1976, article 9(1).

“[A]ny person arrested or detained on a criminal charge will have the right, so that the lawfulness of his arrest or detention can be decided, to be brought promptly before a judge or other officer authorized by law to exercise this function.”¹⁵⁹

HIV prevention in prison

In Saint Petersburg, as elsewhere in Russia, drug users have a high likelihood of spending time in police detention or in prison at some time in their lives. The Ministry of Justice, which oversees medical services in the prison system, has taken some steps to acknowledge and address HIV risk in prison. The Ministry has allowed some NGOs to enter the prisons to provide information on HIV prevention and even gave an award to the AIDS Foundation East-West, a Moscow-based NGO, for its work in prisons.¹⁶⁰ The ministry has facilitated the implementation of externally funded programs to address the severe problem of tuberculosis in Russian prisons;¹⁶¹ tuberculosis is an important opportunistic infection associated with HIV/AIDS as well as a public health concern in its own right. Notwithstanding these measures, HIV prevention and AIDS care in prisons remains fraught with difficulties, and the case of Saint Petersburg illustrates many of these.

According to Dr. Dmitry Ruksin, chief of the State Sanitary and Epidemiologic Supervision Center of the Saint Petersburg and Regional Correction Department, over 50 percent of the inmates in the prison system of Saint Petersburg and the surrounding region were incarcerated because of drug-related crimes.¹⁶² He said, however, that this percentage in his view is declining with the lower popularity of heroin compared to noninjected synthetic drugs, which are less associated with offenses that entail prison sentences. In addition, Ruksin noted that since early 2002, procedural changes to cut down on arbitrary imprisonment have resulted in a significant overall reduction in the prison and pre-trial detention populations. From 32,000 in the mid-1990s and 28,000 at the end of the 1990s, he said, the Saint Petersburg region now has about 18,000 inmates in its fourteen facilities. These include the Kresty pre-trial detention center, the biggest correctional facility in Europe.

Ruksin noted that in 1998 the prison authorities began seeing a significant increase in HIV infection among inmates, particularly injection drug users. All inmates are

¹⁵⁹ The Document of the Copenhagen Meeting of the Conference on the Human Dimension of the CSCE, signed in Copenhagen on June 29, 1990, article 1.5(5.15). *Habeas corpus* is also effectively provided under article 9(3-4) of the ICCPR.

¹⁶⁰ AIDS Foundation East-West, “HIV prevention and health promotion in prisons in the Russian Federation,” project report, 2003. Available at www.afew.org/english/projects_prison_rus.php (retrieved March 29, 2004).

¹⁶¹ Penal Reform International, Newsletter of the Penal Reform Project in Eastern Europe and Central Asia, Issue no. 10, Autumn 2000, available at http://www.penalreform.org/english/nlececa10_2.htm#russia (retrieved March 30, 2004).

¹⁶² Human Rights Watch interview with Dr. Dmitry Ruksin, chief, State Sanitary and Epidemiologic Supervision Center of the Saint Petersburg and Regional Correction Department, Saint Petersburg, February 14, 2004.

tested for HIV upon entry to the correctional system in Saint Petersburg even though, as noted above, the law was changed in 2001 to eliminate obligatory testing of detainees. A 2000 survey of 9727 inmates in Saint Petersburg found that 46 percent were HIV-positive and 58 percent had injected drugs in the previous year.¹⁶³ The NGO Delo estimated in early 2004 that there were about 3000 persons with AIDS incarcerated in Saint Petersburg and the Leningrad Region.¹⁶⁴ “Of course it is recognized that there is drug use in prison, but the prison regulations don’t allow drugs,” Ruksin noted, and there is no syringe exchange or other official provision of sterile syringes in the prison system. “We are trying to plant in their minds some ideas about clean needles, but our regulations don’t allow syringes in prison. The city has syringe exchange points on the outside.”

Former inmates interviewed by Human Rights Watch in Saint Petersburg confirmed the presence of all kinds of narcotics in prisons, obtained mostly from the guards, who they said also supplied inmates with needles for a fee. Fyodor N., twenty-four, a veteran of the armed conflict in Chechnya, said: “There was a lot of drug use in prison [in 2002 and 2003]—all kinds of drugs. The guards who had been paid off supplied the prisoners with drugs and needles. People could get anything through from the outside; the guards would turn a blind eye for money.” Ekaterina S., a person living with HIV/AIDS whose boyfriend was incarcerated in 2002, said he was able to get a greater variety of drugs in prison than when he was out of jail, but all of them were much more expensive in prison than outside.¹⁶⁵

Former inmates reported that in addition to a lack of harm reduction services, the absence of basic education on HIV transmission and the lack of access to condoms in the prison system were of concern. As Viktor B. noted: “Someone came to the cell to tell me [I was HIV-positive], and I had to sign a statement that said I was aware of the law, that I would get three to eight years in prison if I infected someone. But I was told nothing about the disease.”¹⁶⁶ Fyodor N. suggested: “They need to explain to people what AIDS is, even for the HIV-positive people to learn about what it is to be HIV-positive.”¹⁶⁷ Asked about providing basic information on HIV transmission, including sexual transmission, to inmates, Ruksin of the correctional service said: “We try to do that, but we have regulations that forbid sex among inmates, so it’s difficult to handle,” but he noted that condoms are provided in the rooms that are used for conjugal visits to prisoners.¹⁶⁸

¹⁶³ Rhodes et al., 2004, p. 4.

¹⁶⁴ Human Rights Watch interview with Alexander Rumyantsev, Saint Petersburg, February 15, 2004.

¹⁶⁵ Human Rights Watch interview with Ekaterina S., Saint Petersburg, February 21, 2004.

¹⁶⁶ Human Rights Watch interview with Viktor B., Saint Petersburg, February 21, 2004.

¹⁶⁷ Human Rights Watch interview with Fyodor N., Saint Petersburg, February 21, 2004.

¹⁶⁸ Human Rights Watch interview, February 14, 2004.

Ruksin suggested that the 2001 order eliminating mandatory segregation of HIV-positive inmates has been interpreted in Saint Petersburg to allow individual correctional facilities to decide how to house HIV-positive prisoners. He said that in all but one of the prison colonies today and in Kresty pre-trial detention center, there are separate wards for HIV-positive inmates but HIV-positive people go there voluntarily. “We are trying to implement non-isolation of HIV-positive and HIV-negative people,” he said. Ekaterina S. told Human Rights Watch that her boyfriend, who was released from Kresty pretrial detention center in October 2003, was told he had no choice but to stay in the HIV-positive section of the facility.¹⁶⁹

Human Rights Watch spoke with a number HIV-positive persons who had been incarcerated in Saint Petersburg and spoke of both difficult living conditions and the larger problem of the lack of HIV prevention services in prison for drug users and inmates more generally. Viktor B., twenty-two, noted: “When I was in pre-trial detention, there were three cells with HIV-positive people, but they were all full. Where I was, there were ten beds and thirty-five of us—we have to sleep in shifts. So they sent me in with the others.”¹⁷⁰ Fyodor N. described his attempt to seek better living conditions for people with HIV in 2002 and 2003 when he was in pre-trial detention:

I was kept in the HIV-positive ward [after I got my test result]. The people who were kept there went crazy. Many were serving long sentences, and they thought they would die there, so some of them did everything possible to die even sooner. There wasn’t much difference in the treatment of HIV-positive prisoners compared to the rest. We didn’t get better health care—we got some vitamins now and then, but they were past their expiration date. I wrote about this to the prison authorities because I knew that they had money that was supposed to be spent on AIDS in prisons. I complained over and over again about the food. Finally I was summoned to the prison authorities and they said if I want to have a normal life in prison, I should stop my complaints....But I succeeded somewhat with my complaint. Before, we had fifty-four people in cells with a capacity of thirty-three. After my complaints, the number of inmates in the cell never exceeded the cell capacity.¹⁷¹

When Fyodor N. and his fellow inmates finally were told that they did not need to be isolated any longer, a number of them resisted this change. He said this was at least partly because the HIV-negative people understood HIV/AIDS very poorly and might be inclined to blame the HIV-positive people if someone was infected and partly to

¹⁶⁹ Human Rights Watch interview, February 21, 2004.

¹⁷⁰ Human Rights Watch interview with Viktor B., Saint Petersburg, February 21, 2004.

¹⁷¹ Human Rights Watch interview with Fyodor N., Saint Petersburg, February 19, 2004.

avoid accidental transmission. “If you’re in with the rest, someone could use your razor...you never know what could happen,” he said.

HIV/AIDS and public health experts have long criticized the practice of segregation of HIV-positive prisoners because, in addition to adding to the stigma of HIV, this isolation can result in a false sense of security from the idea that HIV will not be transmitted in the HIV-negative part of the prison. According to the Canadian HIV/AIDS Legal Network, HIV-based segregation in prisons “would create the unrealistic and dangerous assumption among prisoners and staff...that all prisoners with HIV or AIDS are held in those special [isolation wards]. This could easily lead to the further assumption that prisoners held in other prisons need not practice safer sex or safer needle use.”¹⁷² The lack of HIV prevention services for prisoners is of concern to the general population as well as to inmates because the great majority of prisoners are in prison for relatively short periods. Ruksin estimated the average prison stay in the Saint Petersburg region to be approximately six months.

Prisons are also lacking in services for detoxification or rehabilitation of drug users other than simple withdrawal¹⁷³. Ruksin attributed this to a lack of resources for this purpose. Viktor B. said that he underwent detoxification in prison in Saint Petersburg. “Drug rehabilitation was being put on a dry regime. They close the door and that’s it. You beg or you don’t beg [for help]—there’s no point. They don’t call the doctor, nothing. If you start to get convulsions, they call the doctor and give you a tablet of analgesic, but that’s it.”¹⁷⁴ Ruksin said that in general it was not possible to transport prisoners for care such as drug rehabilitation to specialized facilities outside the prison system but that care outside prison was arranged for specialized surgery.

Human rights and international standards on HIV/AIDS and drug use in prison

Article 22(1) of the U.N. Standard Minimum Rules for the Treatment of Prisoners recommends that medical services in prisons be “organized in close relationship to the general health administration of the community or nation.”¹⁷⁵ In this spirit, the World Health Organization (WHO) Guidelines on HIV Infection and AIDS in

¹⁷² Canadian HIV/AIDS Legal Network, “The Case against Segregation in “Specialized” Care Units,” *Canadian HIV/AIDS Policy and Law Newsletter*, vol. 3 no. 4 and vol. 4 no. 1, Winter 1997/98.

¹⁷³ The United Nations Office of Drug Control and Crime has developed a number of principles of standards of drug rehabilitation and treatment of drug addiction. See http://www.unodc.org/unodc/en/treatment_toolkit.html (retrieved March 24, 2004).

¹⁷⁴ Human Rights Watch interview with Victor B., Saint Petersburg, February 21, 2004.

¹⁷⁵ Standard Minimum Rules for the Treatment of Prisoners, approved by U.N. Economic and Social Council resolution, July 31, 1957.

Prisons¹⁷⁶ makes several suggestions that are pertinent to HIV prevention and AIDS care in Russian prisons. The guidelines note that HIV prevention measures in prison should be comparable to those in the surrounding community and should be based on “risk behaviours actually occurring in prisons, notably needle-sharing among injecting drug users and unprotected sexual intercourse” (article A.4). Regarding injection drug users in particular: Article C. 24:

In countries where bleach is available to injecting drug users in the community, diluted bleach or another effective viricidal agent, together with specific detailed instructions on cleaning injecting equipment, should be made available in prisons housing injecting drug users or where tattooing or skin piercing occurs. In countries where clean syringes and needles are made available to injecting drug users in the community, consideration should be given to providing clean injecting equipment during detention and on release to prisoners who request this.

The guidelines go on to say that since “penetrative sexual intercourse occurs in prison, even when prohibited, and condoms should be made available to prisoners throughout their period of detention” (article C.20).

The WHO guidelines recommend the prohibition of compulsory HIV testing of prisoners and detainees as “unethical and ineffective” (article B.10). They further note that isolation or segregation of HIV-positive prisoners is not “useful or relevant” (article D.27) and should only be considered as a temporary measure in cases where HIV-positive inmates also suffer from infectious tuberculosis or for some other justifiable clinical reason (article D.28). Article L.51 of the guidelines recommends compassionate early release of inmates with advanced AIDS, to the degree that judicial standards will allow. The guidelines also emphasize the importance of peer education in HIV prevention and education activities among prisoners and drug users.

The United Nations Guidelines on HIV/AIDS and Human Rights spell out some measures to be taken in prisons (in paragraph 29):

Prison authorities should take all necessary measures, including adequate staffing, effective surveillance and appropriate disciplinary measures, to protect prisoners from rape, sexual violence and coercion. Prison authorities should also provide prisoners (and prison staff, as appropriate), with access to HIV-related prevention information, education, voluntary testing and counseling, means of

¹⁷⁶ World Health Organization, “Guidelines on HIV Infection and AIDS in Prisons,” WHO/GPA/DIR/93.3 1993., reissued as UNAIDS/99.47/E, September 1999.

prevention (condoms, bleach and clean injection equipment), treatment and care and voluntary participation in HIV-related clinical trials, as well as ensure confidentiality, and should prohibit mandatory testing, segregation and denial of access to prison facilities, privileges and release programmes for HIV-positive prisoners. Compassionate early release of prisoners living with AIDS should be considered.¹⁷⁷

Russian national law, including article 29 of the health law of 1992 and article 12 of the Criminal Implementation Code, guarantees adequate health care for prisoners and persons in detention. Prisoners needing specialized care are entitled by law to received care by specialists outside the correctional institution, both as outpatients and through hospitalization when needed.¹⁷⁸

Discrimination against drug users in health services

Since drug users were the population most heavily affected by HIV in the early years of the AIDS epidemic in Russia, they also dominate the population now beginning to need and seek treatment for AIDS. In Saint Petersburg, they are systematically excluded from the limited antiretroviral (ARV) treatment program of the city. Dr. Elena Vinogradova, the chief physician of the City Health Committee, said that among the approximately 150 persons being provided with free ARV treatment by the city in February 2004 were a number of former drug users, but that active drug users were not seen to be a good risk for the treatment. "Treatment is expensive, and it's not provided to active drug users. People have to sign a contract that they will continue to come every month; if they don't they know they can be taken out of the program. We know all of the people on treatment. We know who can be trusted and who not," she said. She said the city's position is to give priority to children who are infected from being born of HIV-positive women and to mothers. "Children need their mothers," she noted. "If the mothers die, it's an extra burden for the state to pay for the care of the children." She said that she was in the middle of an intensive effort to secure more funding from the city to expand the treatment program significantly.

The head of the Federal AIDS Center, Dr. Vadim Pokrovsky, told Human Rights Watch, however, that research conducted by his institution demonstrated that active drug users can comply well with ARV treatment regimens. He said that federal policy, therefore, is not to exclude active drug users from treatment but recognized that the city and regional AIDS centers with resource-strapped treatment programs

¹⁷⁷ Office of the United Nations High Commissioner for Human Rights and the Joint United Nations Programme on HIV/AIDS, "HIV/AIDS and Human Rights International Guidelines" (from the second international consultation on HIV/AIDS and human rights, 23-25 September 1996, Geneva), U.N. Doc. HR/PUB/98/1, Geneva, 1998, par. 29(e).

¹⁷⁸ Penal Enforcement Code of the Russian Federation, as amended in 2001; see also Tatiana Lokshina, ed. *Situation of Prisoners in Contemporary Russia*. Moscow: Moscow Helsinki Group, 2003, p.30.

may have nonclinical reasons to make this exclusion. The findings Pokrovsky reports from his research echo a large and growing body of clinical studies that indicate that active drug users are able to comply with ARV treatment at rates similar to those of the general population.¹⁷⁹

Ekaterina S., age thirty-two, an HIV-positive woman who was not a drug user, told Human Rights Watch that she had a sister who was infected through injection drug use.

The doctor told me that they would rather give treatment to me than to my sister who still uses drugs. They told my sister “you’re not worth it—sooner or later you’ll just wind up in prison.” I don’t understand this. All people are equal. If I had to choose between getting treatment myself and giving it to my sister, I would choose her. She’s only twenty-five; she has plans for the future.¹⁸⁰

Human Rights Watch spoke with a number of HIV-positive persons, including drug users and former drug users, who said the city used social criteria other than just active drug use to exclude people from the treatment program. “They tell people that if they don’t live with their parents or someone ‘stable’ they can’t get the treatment,” said Fyodor N.¹⁸¹

For persons not benefiting from free ARV treatment from the city, it was possible in February 2004 to obtain antiretroviral drugs in Saint Petersburg, as in Moscow and other large Russian cities, but at a cost of about U.S. \$1000 per month for triple therapy.¹⁸² The average wage in Saint Petersburg was estimated in February 2004 to be about U.S. \$250.¹⁸³ Active drug users are probably less likely than the average

¹⁷⁹ Research on this subject confirms unsurprisingly that active drug users face some challenges in ARV compliance not faced by non-drug users but that with some simple and low-cost measures to tailor programs to drug users, compliance can be equivalent among drug users and other patients. The best results on compliance of heroin users to ARV regimens have been reported in settings where methadone or other opiate substitution therapy is readily available, unlike in Russia. See, e.g., J.P. Moatti, M.P. Carrieri, B. Spire et al., “Adherence to HAART in French HIV-infected injecting drug users: The contribution of buprenorphine drug maintenance treatment,” *AIDS*, vol. 14, no. 2, January 28, 2000, pp. 151-155; A. Mocroft, S. Madge, A.M. Johnson et al., “A comparison of exposure groups in the EuroSIDA study: Starting highly active antiretroviral therapy (HAART), response to HAART and survival,” *Journal of Acquired Immune Deficiency Syndromes*, vol. 22, no. 4, 1999, pp. 369-378; and B. Roca, C.J. Gomez, and A. Arnedo, “Stavudine, lamivudine and indinavir in drug abusing and non-drug abusing HIV-infected patients: adherence, side effects and efficacy,” *Journal of Infection*, vol. 39, no. 2, 1999, pp. 141-145.

¹⁸⁰ Human Rights Watch interview with Ekaterina S., Saint Petersburg, February 21, 2004.

¹⁸¹ Human Rights Watch interview, Saint Petersburg, February 19, 2004.

¹⁸² Human Rights Watch interview with Dr. Igor Piskarev, February 12, 2004. Triple therapy refers to treatment regimens that rely on a combination of three antiretroviral drugs, which are designed to optimize clinical effectiveness and minimize drug resistance.

¹⁸³ News in Brief—Average Wage \$250, *Saint Petersburg Times*, February 13, 2004, p. 7.

wage earner to be able to afford this sum. In addition, several former drug users and persons with HIV/AIDS told Human Rights Watch that while the ARV treatment is free to those admitted to the program, being in the program requires having a viral load test,¹⁸⁴ which costs 6000-7000 rubles (U.S. \$207-241).¹⁸⁵ Dr. Vadim Pokrovsky of the Federal AIDS Center recognized this to be a constraint and said that the federal government would in 2004 supply the regional and municipal AIDS centers with lower-cost kits for viral load testing.¹⁸⁶

The scarcity of ARV treatment, especially for drug users, is particularly important in light of the apparent scarcity of humane services to treat the addiction of drug users. As noted above for prisons, health practitioners in the regular city health system are limited in the options they can offer to treat drug addiction. This is partly because opiate substitution drugs such as methadone, which are central to detoxification programs for heroin users in most countries, remain illegal in Russia. Vladimir A. said there were many twelve-step programs and very expensive privately offered programs. “The state narcology centers are inhumane—no medicines, no care, the places are dirty and cold, they just keep you there. The private providers often are not competent, but they say ‘give us thousands and we will cure you.’ Some parents will pay anything to see their child off drugs.”¹⁸⁷

Some drug users said they faced discrimination and abuse in access to health services more generally. “I had a clot in my vein from a bad shooting. I had fever and headaches and needed a doctor. I called an ambulance [public ambulance service]. Two guys came and asked me what the problem was. They suggested some medicine that wasn’t free. But then they said it was my time to die, it was high time that I died,” said Pavel O. Dr. Musatov of the Botkin Hospital said health service access for drug users is complicated by several factors:

There is a real problem of access. First, injection drug users often are not registered in Saint Petersburg, they have no passport, no insurance; these are now obligatory documents. Secondly, some health professionals don’t understand the principle of supporting drug users. Third, the absence of substitution therapy is a problem. With heroin, people have these ups and downs and may be driven to

¹⁸⁴ Viral load refers to the amount of HIV in the blood. It is usually reported as a number of “copies” of the human immunodeficiency virus in one milliliter of blood. See New Mexico AIDS InfoNet, “Viral Load Tests—Fact Sheet,” available at <http://www.aids.org/factSheets/125-Viral-Load-Tests.html> (retrieved March 22, 2004).

¹⁸⁵ Human Rights Watch interview with Oksana B., a person living with HIV/AIDS, Saint Petersburg, February 16, 2004, and with Natalya R., a person living with HIV/AIDS, Saint Petersburg, February 21, 2004.

¹⁸⁶ Human Rights Watch interview, Dr. Vadim Pokrovsky, Moscow, February 26, 2004.

¹⁸⁷ Human Rights Watch interview, Saint Petersburg, February 12, 2004.

criminal acts and a blow-up of emotions. With substitution therapy, we could treat this.¹⁸⁸

Asked whether drug users are also hesitant to seek services for fear of being registered by the government as addicts, Musatov said that at Botkin Hospital, it is the practice to register only the main infectious disease diagnosis with which a drug user presents and not to register the addiction as would be done at a city narcology center.¹⁸⁹ A 2001 study of drug users by the Pasteur Institute of Saint Petersburg found that 70 percent of those surveyed had never sought medical care of any kind at least partly due to fear of stigma.¹⁹⁰

Article 2 of the ICESCR prohibits discrimination in the realization of all the rights covered in the covenant, including the right to health. In General Comment No. 14 on the right to the highest attainable standard of health, the Committee on Economic, Social and Cultural Rights repeatedly stresses the importance of equality of access to health care without discrimination.¹⁹¹ According to the committee, “health facilities, goods and services must be accessible to all, especially the most vulnerable or marginalized sections of the population, in law and in fact, without discrimination on any of the prohibited grounds.” The prohibited grounds include both “physical or mental disability,” “health status,” and any “other status” that has “the intention or effect of nullifying or impairing the equal enjoyment or exercise of the enjoyment or exercise of the right to health.”¹⁹²

The same U.N. drug control conventions that the Russian Federation cites in banning methadone oblige it to provide humane addiction treatment services for drug users. The Single Convention on Narcotics Drugs of 1961 and its additional protocol of

¹⁸⁸ Human Rights Watch interview with Dr. Vladimir Musatov, February 12, 2004.

¹⁸⁹ Musatov noted that 75 percent of drug users the hospital sees are infected with hepatitis C. But frontline drugs for treatment of hepatitis C, such as interferon, are not covered by the state medical insurance system.

¹⁹⁰ Dr. Tatjana Smolskaya, Pasteur Institute of Saint Petersburg, “Impact of HIV/AIDS on Society,” presentation at the Northern Dimension Forum, Lappeenranta, Finland, October 22, 2001, p. 5.

¹⁹¹ Committee on Economic, Social and Cultural Rights, “General Comment No. 14,” paras. 12(b), 18, 26.

¹⁹² This strengthens the guarantee of nondiscrimination in article 2(2) of the ICESCR, which states that “States Parties... undertake to guarantee that the rights enunciated in the present Covenant will be exercised without discrimination of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.” In its General Comment No. 5 on Persons with disabilities, the Committee on Economic, Social and Cultural Rights notes that “other status” in article 2(2) “clearly applies to discrimination on the grounds of disability” (para. 5). While disability is not specifically enumerated in article 26, its mention in other international treaties and in human rights jurisprudence suggests it is properly considered an “other status” for the purpose of the ICCPR. The Human Rights Committee, in its Concluding Observations for Australia in 2000, used the antidiscrimination provisions of the ICCPR to emphasize states parties’ duty to protect the disabled. Discrimination on the basis of disability has also been recognized and condemned by the Committee on the Elimination of Discrimination Against Women, particularly in relation to the obstacles faced by disabled women and girls in establishing their reproductive and sexual rights. See Committee on the Elimination of Discrimination Against Women, “General Recommendation 18: Disabled Women” (10th Sess., 1991).

1972 and the Convention on Psychotropic Substances of 1971, to which the Russian Federation is a party, oblige states to establish rehabilitation and social reintegration services for drug users according to international standards.¹⁹³ A 2004 position paper of the World Health Organization, UNAIDS and the U.N. Office on Drugs and Crime states that substitution maintenance therapy with methadone or another opiate substitute “is a critical component of community-based approaches in the management of opioid dependence and in the prevention of HIV infection...,” emphasizing also the effective track record of this therapy.¹⁹⁴

Discrimination against people with AIDS and public knowledge and attitudes about AIDS

The stigma and abuse faced by drug users because of their addiction is compounded when they are HIV-positive or assumed to be HIV-positive. Discrimination based on HIV status is rampant in Saint Petersburg, which as a major city with a government concerned about HIV/AIDS probably has one of the better informed populations in Russia with respect to the epidemic. People living with HIV/AIDS who spoke with Human Rights Watch recounted consistent and numerous stories of discrimination and abuse related to their HIV status. These include many stories of discrimination by health professionals and other persons who apparently did not understand the basic facts of HIV transmission.

As in other jurisdictions in Russia, the city health system of Saint Petersburg includes specialized facilities such as the AIDS Center and the “narcology” center, as well as local health clinics that are meant to offer a variety of standard services to people in the surrounding neighborhood. According to a decision of the city’s legislative body in 2002, people with HIV/AIDS should be able to obtain routine non-invasive health care and check-ups at their neighborhood clinics.¹⁹⁵ Natalya R., twenty-six, a person living with HIV/AIDS, described an experience at the city clinic in her neighborhood:

Six months ago, I went to a city clinic in my neighborhood for a consultation (with the gynecologist). They did the standard tests, including blood tests. I went the second time three or four days later. It was a big scandal. They said I should have warned them that I was HIV-positive. They were shouting, and they pushed me out of there—they said, “You people know the place where you’re supposed to go.” So I went to the AIDS Center, and the gynecologist there saw me and we talked. The gynecologist there called back to the city

¹⁹³ Single Convention on Narcotics Drugs of 1961, as last amended by the protocol of March 25, 1972, article 38, and the Convention on Psychotropic Substances of 1971, General Assembly res. 366 (IV) of December 3, 1971, article 20.

¹⁹⁴ World Health Organization (on behalf of WHO, UNAIDS and UNODC), “Substitution maintenance therapy in the management of opioid dependence and HIV/AIDS prevention: Position paper,” Geneva: WHO, 2004.

¹⁹⁵ Human Rights Watch interview with Dr. Elena Vinogradova, Saint Petersburg, February 17, 2004.

clinic, and they had a heated discussion. That clinic is close to my house and convenient, but I would never go there again. If you go for testing in the AIDS Center, they give you proper counseling; this is not true in the other place. It's absolutely different when you get a test result in the city clinic—they threaten and intimidate you and don't give you any useful information.¹⁹⁶

Andrei Panov, a person living with HIV/AIDS and the director of Peter Positive, a support group for HIV-positive people in Saint Petersburg, explained that he and his wife had recently had a baby. “The pediatric health worker came to us and told us not to kiss the baby or to touch the pacifier....When things like that happen, you wonder how we're going to solve the problem [of discrimination] more globally,” he said.¹⁹⁷

Oksana B., twenty-five, who had been living with HIV for almost four years when Human Rights Watch met her, was working with other HIV-positive people in the support group Svecha (“Candle”) especially to provide assistance for HIV-positive persons rejected by their families or facing discrimination in other spheres. “The most difficult thing is when your loved ones push you away,” she said. Svecha has seen many such incidents, she continued:

There are many where their parents don't want them to live with them anymore. Many people just don't tell anyone about [their HIV status] because they've seen what happens to others, and they're scared. Many people have had the experience of being fired from work....We have many plans, many people [with HIV/AIDS] who want to help each other....Everyone understands that if we don't help ourselves, no one will help us.¹⁹⁸

Mariana Liptuga, HIV/AIDS program coordinator for the Christian Interchurch Diaconal Council in Saint Petersburg, ran up against health professionals who were underinformed about HIV/AIDS when in 2002 she began exploring the question of whether people with AIDS might be treated in the palliative care centers of the city health system. The city has ten hospices that have a mandate to provide in-patient and home-based palliative care to cancer patients. Recognizing that the city cared for AIDS patients only in the AIDS Center and in Botkin Infectious Disease Hospital and that the number of AIDS patients was growing, Liptuga raised the idea that AIDS patients should be able to enter the city's palliative care facilities and was quickly met with resistance. She surveyed forty doctors and nurses in the palliative care system and found that almost 70 percent of the nurses said that they would refuse to care for

¹⁹⁶ Human Rights Watch interview with Natalya R., Saint Petersburg, February 15, 2004.

¹⁹⁷ Human Rights Watch interview with Andrei Panov, Saint Petersburg, February 19, 2004.

¹⁹⁸ Human Rights Watch interview with Oksana B., Saint Petersburg, February 17, 2004.

people with AIDS, and 50 percent of the doctors said that the AIDS patients would pose a serious danger to themselves (the doctors).¹⁹⁹ Twenty percent of the nurses believed that the AIDS patients would pose a serious danger to other patients. In the end, according to Liptuga, two of the palliative care centers said they would admit people with AIDS, and the rest said they would support some level of home-based care for people with AIDS.

Numerous people living with HIV/AIDS who spoke to Human Rights Watch expressed concern over the way in which they found out from health professionals that they were HIV-positive. “The doctor summoned me and put a piece of paper in front of me and said ‘read this’. I still have it—it said I was ‘AIDS-positive,’” said Dimitry L., who said he felt as though he would probably die soon after. Several members of the HIV-positive persons group Svecha in Saint Petersburg told Human Rights Watch about an eighteen-year-old young man of their acquaintance who, when he got his results, was told by the doctor “you will die in a year.” This young man sold all of his possessions and was soon after in a fatal car crash, which some of his friends believed was a suicide.²⁰⁰ Oksana B. said she had a similar experience when she became pregnant, having already been diagnosed as HIV-positive. “Some doctors said I should give birth, some said ‘think about what you’re doing to yourself and the child.’ When I went to the consultation, the first question was ‘do you have someone to leave the child with?’ as if I were going to die tomorrow,” she said.²⁰¹

Dr. Vinogradova of the City Health Committee said that the AIDS Center provided continuous training for doctors and that incidents of discriminatory behavior in nonspecialized city health facilities had become less frequent since the city issued its regulations on HIV-related discrimination in health services.²⁰² She explained that she herself has intervened in cases such as this. She also said that she knew that the counseling associated with HIV testing and explanation of test results left much to be desired in some cases and that the AIDS Center was continuing to address this problem in the training of doctors and nurses.

A lack of understanding of HIV/AIDS is not limited to health professionals. Mariana Liptuga of the Interchurch Diaconal Council described to Human Rights Watch her effort to approach one of the Council’s partner organizations to arrange a meeting place for Svecha. In 2003, she approached an organization that had space in a building where a children’s shelter also was operated. She said that the reaction was at first very negative—“People said ‘it’s impossible that we should use the same toilet as those people’”—but after the Council did a seminar on HIV/AIDS, the group

¹⁹⁹ Human Rights Watch interview with Mariana Liptuga, HIV/AIDS program coordinator, Christian Interchurch Diaconal Council of Saint Petersburg, Saint Petersburg, February 20, 2004.

²⁰⁰ Human Rights Watch interview with Natalya R., Saint Petersburg, February 21, 2004.

²⁰¹ Human Rights Watch interview, February 17, 2004.

²⁰² Human Rights Watch interview, February 17, 2004.

agreed to allocate the space to Svecha. One day, however, a spot of blood was found near the entrance to the building, and one of the workers in the building said that it must be from HIV-positive people and it would endanger everyone in the building. It turned out that the blood was that of a cat injured near the building.²⁰³ “These are people who should know better,” she said. “There are still some people who, when I tell them that I work on HIV/AIDS, tell me I should be very careful [not to catch HIV].” Andrei Panov of Peter Positive said that when he led a group of HIV-positive people to talk to church members about World AIDS Day, people asked whether they were communists but were more accepting after they heard about World AIDS Day.

Many of the stories of discrimination recounted to Human Rights Watch appear to have their roots in public ignorance about the basic facts of HIV transmission, especially the apparently widely held idea that HIV is highly contagious on casual contact.

Nongovernmental organizations working on HIV/AIDS in Saint Petersburg organized a public rally for World AIDS Day (December 1) 2003 attended by an unprecedented 800 to 1000 people. To increase attention to HIV/AIDS around the time of this event, the NGO Delo in Saint Petersburg enlisted the cooperation of a local journalist, Leonid Balyabin, to produce a number of informational television spots on HIV/AIDS. Balyabin also conducted a “man on the street” poll in the center of Saint Petersburg to ask people what they knew about HIV/AIDS. He told Human Rights Watch:

We asked people about a number of things—for example, if there was an HIV-positive child in your child’s school, what would you do? They said they wouldn’t want their child in that school. Some people, asked about AIDS, said “you should just keep as far away as possible from it.” Some said they wouldn’t even talk to someone with AIDS.²⁰⁴

Three segments produced by Balyabin were shown on principal news channels of the city. He was in the process of producing a fourth segment that would focus on the lack of access to generic drugs in Russia when he was called into the office of his editor. Balyabin said his editor told him, “we don’t need any more of these shows in AIDS. This is negative information that will just frighten people.”

Experiences such as this are apparently not new in the history of Saint Petersburg. Dr. Valina Volkova, then head of infectious diseases in Saint Petersburg, said in 2001 that she contacted all the local broadcast media in an effort to get them to help inform

²⁰³ Human Rights Watch interview with Mariana Liptuga, February 20, 2004.

²⁰⁴ Human Rights Watch interview with Leonid Balyabin, Saint Petersburg, February 15, 2004.

the public about HIV/AIDS but could not get any to respond.²⁰⁵ In a 2000 editorial entitled “Law enforces ignorance of AIDS risks,” the editors of the *Saint Petersburg Times*, an English-language newspaper in the city, complained in that they had been criticized by government officials for featuring an article about the growing problem of drug use and its link to HIV/AIDS in their newspaper. The newspaper was warned that writing about drug use could be a violation of article 1 of the Press Law, which forbids mass media publication of “information about the means, methods of production, preparation and use of narcotic substances.” The editors criticized the law: “It is a shame that sufficient education programs about the dangers of drug use are not widely available, but it is a greater shame that [the] media, which have the power to provide that education, are forbidden from doing so by lawmakers embarrassed about the problems their laws are written to cover up.”²⁰⁶

It is not only news media outlets that have been constrained in providing information to the public on HIV/AIDS. A web site called “drugusers.ru,” run by and for drug users to provide them with information about harm reduction, among other topics, was shut down briefly by SDCC officials in early 2004, and the administrators of it were sought for questioning.²⁰⁷

A story recounted to Human Rights Watch by Irina P., twenty, illustrated both the depth of discrimination faced by people with HIV in Saint Petersburg and the progress that is possible when people are able to assert their rights. At age sixteen when she was in secondary school, Irina P. tested positive for HIV, and her HIV status became known to other students in the school. Parents called the school, demanding that she be expelled. Irina P.’s family supported her, engaged legal counsel, and eventually persuaded the director of the school to allow her to finish her course of study. She continued to face stigma from some classmates, but she finished school and went on to be certified to teach physics. Soon before Human Rights Watch met Irina P. in early 2004, she was asked by the same school director to return to the school as a teacher. This happy ending is a bit dulled by the fact that as a teacher, she was not allowed to speak to students about HIV/AIDS and even the biology teacher, according to her, was very constrained in what she could say about HIV/AIDS in class.

Dr. Vinogradova of the City Health Committee recognized that there remains a long way to go to educate the public about HIV/AIDS. “In the declaration from the 2001 AIDS summit of the U.N., countries agreed that 95 percent of their people have to know about AIDS. We are now in 2004, and certainly 95 percent of the people here

²⁰⁵ Sergey Grachev, “HIV taking grip on Petersburg,” *Saint Petersburg Times*, February 20, 2001, p. 1.

²⁰⁶ “Law enforces ignorance of AIDS risks” (editorial), *Saint Petersburg Times*, July 25, 2000, available at www.sptimesrussia.com/archive/times/588/opinion/law.htm (retrieved March 8, 2004).

²⁰⁷ Electronic mail to Human Rights Watch from Vladimir A., March 8, 2004.

are not aware of the basic facts,” she said.²⁰⁸ Dr. Vadim Pokrovsky of the Federal AIDS Center in Moscow said he believes Moscow and Saint Petersburg particularly have spent too little of their AIDS resources on public education. He said he was optimistic that the upcoming NGO-led effort supported by the Global Fund to Fight AIDS, Tuberculosis and Malaria would fill this gap to some degree.²⁰⁹

Human rights and international and national standards

The Russian national law on HIV/AIDS (Federal Law on Prevention of the Dissemination in the Russian Federation of the Disease Caused by the Human Immunodeficiency Virus of 1995) contains prohibitions against “limitations of the rights of HIV-infected persons,” including dismissal from work, refusal to hire, refusal to provide medical assistance, limitation of housing rights and “limitation of other rights and legal interests” based on HIV status (article 17), though the word “discrimination” is not used.²¹⁰ Article 4 of the law provides that the state will guarantee “regular information of the population, including through the mass media, about accessible measures for the prevention of HIV infection.”

Under international law, all persons have the right to equality before the law and equal protection of the laws. The guarantees of equality before the law and equal protection of the laws prevent a government from arbitrarily making distinctions among classes of persons in promulgating and enforcing its laws. Under article 26 of the ICCPR, “the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.”²¹¹ At its fifty-third meeting in 1995, the U.N. Commission on Human Rights concluded that “discrimination on the basis of AIDS or HIV status, actual or presumed, is prohibited by existing international human rights standards” in that the term “or other status” in international human rights instruments (including the ICCPR) “can be interpreted to cover health status, including HIV/AIDS.”²¹²

²⁰⁸ Human Rights Watch interview, February 17, 2004.

²⁰⁹ Human Rights Watch interview with Dr. Vadim Pokrovsky, Moscow, February 26, 2004.

²¹⁰ Russian Federation, Federal Law on Prevention of the Dissemination in the Russian Federation of the Disease Caused by the Human Immunodeficiency Virus, March 30, 1995, as amended in 1996, 1997, and 2000.

²¹¹ ICCPR art. 26. A related provision of the ICCPR provides that states may not discriminate in securing the fundamental rights and liberties guaranteed in the convention. ICCPR, art. 2. The United Nations Human Rights Committee, the body charged with monitoring compliance with the ICCPR, determined in a 1994 case that an Australian law banning sexual contact between consenting adult men was a violation of Australia’s obligations as a party to the ICCPR. This decision concluded that the discrimination provision of the ICCPR should be understood to prohibit discrimination on the basis of sexual orientation. See *Toonen vs. Australia*, U.N. Human Rights Committee, CCPR/C/50/D/488/1992, April 4, 1994.

²¹² Commission on Human Rights, “The Protection of Human Rights in the Context of Human Immunodeficiency Virus (HIV) and Acquired Immune Deficiency Syndrome (AIDS)” (Resolution 1995/44, adopted without a vote, March 3, 1995).

The U.N. International Guidelines on HIV/AIDS and Human Rights enjoin states to “enact of strengthen antidiscrimination and other protective laws that protect vulnerable groups, people living with HIV/AIDS and people with disabilities from discrimination in both the public and private sectors” (guideline 5).²¹³ The guidelines note particular areas in which discrimination is likely and which merit legal protection, including (1) the right of people to freedom from HIV screening for employment, promotion, training or benefits, (2) protection from discriminatory acts such as “HIV/AIDS vilification,” (3) the urgent need for privacy laws to protect the confidentiality of all medical information, including HIV status, and the need for disciplinary and enforcement mechanisms in the case of breaches of confidentiality.²¹⁴

The experience of those affected by HIV/AIDS documented in this report illustrates the importance of the link between discrimination based on HIV status and the right of all people to accessible and scientifically sound information on HIV/AIDS. The right to information on HIV/AIDS is also essential to the ability of all persons to realize the right to life. The right to life is “the supreme right from which no derogation is permitted even in time of public emergency which threatens the life of the nation,” as guaranteed in article 6 of the ICCPR.²¹⁵ Noting that the right to life “is a right which should not be interpreted narrowly,”²¹⁶ the Human Rights Committee has observed:

The expression “inherent right to life” cannot properly be understood in a restrictive manner and the protection of this right requires that States adopt positive measures. In this connection, the Committee considers that it would be desirable for States parties to take all possible measures to reduce infant mortality and to increase life expectancy, especially in adopting measures to eliminate malnutrition and epidemics.²¹⁷

Because of the uniquely devastating nature of HIV/AIDS, the failure to provide complete and accurate information about HIV/AIDS prevention may result in an arbitrary deprivation of the right to life.

The U.N. Guidelines on HIV/AIDS and Human Rights emphasize the need for states to take affirmative action to provide adequate, accessible and effective HIV-related

²¹³ U.N. Guidelines on HIV/AIDS and Human Rights, guideline 5.

²¹⁴ U.N. Guidelines, paras. 30a, c, d.

²¹⁵ Human Rights Committee, General Comment No. 6 (16th sess., 1982), para. 1.

²¹⁶ *Ibid.*

²¹⁷ *Ibid.*, para. 5.

prevention and care education, information and services.²¹⁸ The guidelines specifically call on states to “ensure the access of children and adolescents to adequate health information and education, including information related to HIV/AIDS prevention and care, inside and outside school,” tailored appropriately to age level and capacity and enables them to deal positively and responsibly with their sexuality.²¹⁹

High-level political commitment to fighting HIV/AIDS and related human rights abuses

The government of the Russian Federation has two structures within the Ministry of Health that are concerned with HIV/AIDS—a three-person office that is a sub-department of the department of epidemiological surveillance, headed by Dr. Alexander Golyusov, and the Federal AIDS Center, which directs research and provides some guidance to the regional and city AIDS centers, headed by Dr. Vadim Pokrovsky.

Given the size and potential destructive power of the AIDS epidemic in its territory, however, the Russian government has devoted comparatively little money and personnel to fighting HIV/AIDS. The annual federal budget for HIV/AIDS for the last several fiscal years has been about U.S. \$4-5 million for an epidemic that is estimated to have infected over 1 million people and to be growing rapidly in the population of approximately 145 million. When the resources of the regional and municipal AIDS centers are included, governmental allocations at all levels to HIV/AIDS in the current year may be as high as U.S. \$22 million.²²⁰ In comparison, for example, the government of Poland, with a population of 39 million people and an estimated 13,000 persons living with HIV/AIDS with a much lower estimated per capita income than that of Russia, allocated U.S. \$11.7 million in the last fiscal year.²²¹ Romania with its population of 22 million and a very small number of people with AIDS, allocated \$48 million over the last three years, including over \$25 million for antiretroviral treatment.²²² In 2002, Pokrovsky said Russia needed \$65 million urgently for prevention and treatment programs.²²³ In April 2003, the World Bank announced a \$150 million five-year loan to Russia to combat HIV/AIDS and tuberculosis, which should support improved public awareness as well as laboratory

²¹⁸ Ibid., para. 38(b).

²¹⁹ Ibid., para. 38(g).

²²⁰ Human Rights Watch interview with Dr. Vadim Pokrovsky, February 26, 2004; see also “Russia is running out of time to curb AIDS before it devastates the country,” *Economist*, June 21, 2003, p.43.

²²¹ Joint United National Programme on HIV/AIDS (UNAIDS), “National Response Brief—Poland,” [online] at <http://www.unaids.org/nationalresponse/result.asp> (retrieved March 8, 2004).

²²² Joint United National Programme on HIV/AIDS (UNAIDS), “National Response Brief—Romania,” [online] at <http://www.unaids.org/nationalresponse/result.asp> (retrieved March 8, 2004).

²²³ Badhken, “Russia on brink...”.

and epidemiological testing and surveillance capacity.²²⁴ *The Economist* reported that the loan was settled “after four years of squabbling about how to spend it.”²²⁵

Dr. Golyusov of the Ministry of Health told Human Rights Watch that the fact that there is a special program in the ministry for HIV/AIDS and not for any other particular disease indicates that the government has a special commitment to fight HIV/AIDS. He noted, in addition, that there are five positions allocated to the HIV/AIDS unit in the ministry, but it has not been possible to fill the two vacant slots because the salary that the government can offer is low relative to the qualifications that are sought.²²⁶ The Russian Federation is one of the few countries in the world that does not have an interministerial program to combat HIV/AIDS, one of the main recommendations of the United Nations from the early years of the epidemic.²²⁷ There is an interministerial body for health policy, Golyusov noted, and he said he favored establishing one for HIV/AIDS.

The disparity between the government’s estimates of the impact of the epidemic and those of other bodies, including international organizations, may be related to the relatively low resource allocation to AIDS programs by the government. In February 2004, for example, federal authorities estimated that between 4000 and 5000 Russians living with HIV/AIDS were in need of antiretroviral treatment; the government estimated that nationwide it was providing treatment for about 1500 of those.²²⁸ At a February 2004 meeting organized in Moscow by the World Bank on access to antiretroviral treatment in Russia, however, the World Health Organization (WHO) representative in Russia, Dr. Mikko Vienonen, noted that WHO’s goal for Russia was to ensure ARV treatment for 50,000 persons by December 2005,²²⁹ indicating that the U.N. agencies have a rather different estimate of the scale of treatment need from that of the government. Dr. Pokrovsky said that he would not expect to see 50,000 persons in need of ARV treatment until about 2008.²³⁰ Dr. Vienonen said WHO was hoping to bring to Russia in the first half of 2004 a team of experts that would look into the impediments to registration of generic ARV drugs in the country.

²²⁴ World Bank, “World Bank helps tackle tuberculosis and HIV/AIDS in Russia: Approves \$150 million loan” (press release), April 4, 2003, available at <http://www.worldbank.org.ru/ECA/Russia.nsf/0/f85139a466195762c3256d0b00287ef6?OpenDocument&Click=> (retrieved March 10, 2004).

²²⁵ “Russia is running out of time...”, p. 43. The World Bank’s April 2003 press release said: “Tackling these problems effectively requires approaches that often are not the same as established practices in Russia. As a result, reaching an agreement was more complex than in many other countries.”

²²⁶ Human Rights Watch interview with Dr. Alexander Golyusov, Moscow, February 26, 2004.

²²⁷ U.N. Guidelines on HIV/AIDS and Human Rights, paragraph 21(a).

²²⁸ Human Rights Watch interview with Dr. Alexander Golyusov, Moscow, February 26, 2004.

²²⁹ Dr. Mikko Vienonen, statement at World Bank meeting on access to antiretroviral treatment for persons with HIV/AIDS in Russia, World Bank office, Moscow, February 25, 2004.

²³⁰ Human Rights Watch interview with Dr. Vadim Pokrovsky, February 26, 2004.

Attending the World Bank meeting were representatives of the major bilateral donors to health programs in Russia, the U.N. agencies and NGOs working on HIV/AIDS in Russia, and a representative of the Ministry of Trade and Economic Development. The absence of a representative of the Ministry of Health was noted by numerous participants. Konstantin Lezhentsev, policy director of the International Harm Reduction Development Program of the Open Society Institute, noted at the meeting that while pursuing registration of generic drugs, the Russian government had not taken advantage of some price discounts offered by brand-name drug manufacturers, as had been done in Ukraine and other countries in eastern Europe.²³¹ The representative in Moscow of Merck & Co., Inc. told Human Rights Watch that this was the case with respect to the ARVs offered at a discount by Merck since 2001.²³²

In late 2003, the Global Fund to Fight AIDS, Tuberculosis and Malaria announced a U.S. \$88.7 million grant for five Russian NGOs working in ten of Russia's eighty-nine regions.²³³ Global Fund grants are normally awarded to a "country coordinating mechanism (CCM)" or government-NGO-private sector entity the formation of which is usually a requirement for consideration of a grant proposal. The Russian NGOs were able to present a proposal because the government had not formed a CCM to which the NGOs could bring their ideas for a proposal.²³⁴ The government later formed a CCM and submitted a proposal to the Global Fund that was rejected in 2003. Dr. Pokrovsky of the Federal AIDS Center said the government would submit another proposal to the Global Fund to seek support for expanded ARV treatment.²³⁵

²³¹ Konstantin Lezhentsev, Open Society Institute, presentation at World Bank meeting on ARV treatment access in Russia, Moscow, March 25, 2004.

²³² Electronic mail to Human Rights Watch from Ricardo Cabeza de la Vaca, representative, Merck & Co., Inc., Moscow, March 16, 2004.

²³³ "Global Fund approves grants to fight HIV/AIDS in Russia," *Lancet*, vol. 362, November 22, 2003, p. 1729.

²³⁴ The only other such non-CCM grant awarded by the Global Fund was to the Thai Network of Drug Users, which made the case that the government had excluded it from the CCM in Thailand. See "Red Cross Red Crescent welcomes Global Fund move to tackle HIV/AIDS among injecting drug users" (press release), October 19, 2003, available at <http://www.ifrc.org/docs/news/pr03/7803.asp> (retrieved March 12, 2004).

²³⁵ Human Rights Watch interview, Moscow, February 26, 2004.

VI. CONCLUSION

On World AIDS Day 2003, people with AIDS and their supporters courageously spoke out on the streets of Saint Petersburg, the home city of Vladimir Putin, to demand an end to the discrimination and abuse that they face. In one of the media reports of this event, a member of the city Duma and the city health committee of Saint Petersburg, Alexander Redko, told reporters that it made no sense to have a program just for HIV/AIDS because there were many other diseases that were also a problem. “Do we need a special program for hemorrhoids or for dental caries?” he said.²³⁶ In the priority it accords to HIV/AIDS, the Russian government has for too long been acting as though HIV/AIDS is little worse than hemorrhoids. It has also been dangerously dismissive of the rights of people at high risk of HIV and those already living with it.

President Putin addressed the Russian nation in January 2002 on the subject of the country’s ailing health system, but he did not mention HIV/AIDS.²³⁷ His first notable mention of AIDS in a national address in June 2003 was described this way by a reporter for *The Economist*: “He flicked out the word [AIDS] as if expelling a tiny, irritating hair, so unobtrusively that many listeners did not hear it.”²³⁸ In September 2003, following a visit by Putin to the United States, the U.S. and Russian governments announced a “cooperation initiative” on HIV/AIDS that would include technical cooperation in research and surveillance of the disease.²³⁹ This partnership, while bringing welcome attention to HIV/AIDS in Russia, is unlikely to help Russia to move forward in the area of HIV prevention services for drug users as the United States government will not support needle exchange services, for example, either at home or abroad.²⁴⁰

In 2002, President Putin publicly committed Russia to a contribution of U.S.\$20 million to the Global Fund to Fight AIDS, Tuberculosis and Malaria.²⁴¹ It did not escape the notice of international observers that, as his own federal government limped along with a U.S.\$5 million annual budget for HIV/AIDS, this gift to the Global Fund gave the impression that Putin believed AIDS to be a problem for other

²³⁶ Videotape of local news broadcast of December 1, 2003 of file at Human Rights Watch.

²³⁷ Badkhen, “Russia on brink...”.

²³⁸ “Russia is running out of time to curb AIDS before it devastates the country,” *Economist*, June 21, 2003, p.43.

²³⁹ United States Government, The White House, “Fact sheet HIV/AIDS: U.S.-Russian HIV/AIDS Cooperation Initiative,” September 27, 2003, available at www.whitehouse.gov/news/releases/2003/09/20030927-9.html (retrieved March 10, 2004).

²⁴⁰ See review of U.S. policy on syringe exchange in Human Rights Watch, *Injecting Reason*, pp. 14-18.

²⁴¹ “Russian AIDS official asks government to match domestic AIDS funding with U.N. Fund donation,” *Kaiser Daily HIV/AIDS Report*, July 25, 2001.

countries but not for Russia.²⁴² Soon after, Putin allocated U.S. \$1.3 billion in federal monies to the celebration of the three hundredth anniversary of Saint Petersburg.²⁴³

With his post-election mandate, President Putin should speak out forcefully about the importance of HIV/AIDS in Russia. Even more importantly, the federal government must ensure appropriate follow-up in resource allocation, effective policy development, and incorporation of lessons from the best experiences of countries with more mature epidemics. While some of Russia's neighbors and countries around the world are vying with urgency for discounts on ARV drugs and for resources from bilateral and multilateral resources, Russia has acted as though it has all the time in the world to get its HIV/AIDS programs in order.

It is clear that in spite of a lack of commitment to proven HIV/AIDS strategies on the part of some Russian authorities, there is a corps of health professionals in Russia who are convinced of the need for a better funded and more rational set of HIV/AIDS policies than the state has so far developed. In addition to proposing retrogressive regulations, the narcotics control authorities have suggested that harm reduction programs, many of which are operated by government health officials, are marred by their lack of professionalism.²⁴⁴ In our interactions with people providing HIV prevention services for drug users in Saint Petersburg, Human Rights Watch was struck by their dedication to enabling every person at risk of HIV to do everything possible to prevent getting the disease and their courage and persistence in difficult circumstances. The work of these professionals and others to move Russia into the twenty-first century on HIV/AIDS policy must not be drowned out by those who cling to failed strategies of repression and abuse.

ACKNOWLEDGEMENTS

²⁴² Paula J. Dobriansky, "The emerging security threat of HIV/AIDS: Russia," presentation at East-West Institute Conference, Washington, D.C., February 28, 2003.

²⁴³ Irina Titova, "Kremlin Pair Puts Spin on Jubilee," *Saint Petersburg Times*, May 23, 2003, p. 1.

²⁴⁴ Interfax interview with Alexander Mikhailov, February 16, 2004.

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